

SIXTY EIGHTH LEGISLATURE - REGULAR SESSION

EIGHTY SIXTH DAY

House Chamber, Olympia, Tuesday, April 4, 2023

The House was called to order at 9:55 a.m. by the Speaker (Representative Bronoske presiding).

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

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

INTRODUCTION & FIRST READING

E2SSB 5199 by Senate Committee on Ways & Means (originally sponsored by Mullet, Conway, Dozier, Holy, Keiser, Lovelett, Nguyen, Shewmake and Valdez)

AN ACT Relating to tax relief for newspaper publishers; amending RCW 82.04.260, 35.102.150, 82.04.460, and 82.08.806; adding a new section to chapter 82.04 RCW; creating new sections; providing an effective date; and providing an expiration date.

Referred to Committee on Finance.

SSB 5218 by Senate Committee on Ways & Means (originally sponsored by Padden, Mullet and Torres)

AN ACT Relating to providing a sales and use tax exemption for mobility enhancing equipment for use by or for a complex needs patient; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and creating new sections.

Referred to Committee on Finance.

E2SSB 5258 by Senate Committee on Ways & Means (originally sponsored by Shewmake, Gildon, Billig, Lias, Lovick, Nguyen, Nobles, Randall and Wellman)

AN ACT Relating to increasing the supply and affordability of condominium units and townhouses as an option for homeownership; amending RCW 64.35.105, 64.50.010, 64.50.020, 64.50.040, 64.90.250, 64.90.605, 64.90.645, 82.45.010, 82.45.010, 82.45.230, 82.02.060, 58.17.060, and 64.55.160; reenacting and amending RCW 64.38.010; adding a new section to chapter 82.45 RCW; creating new sections; providing effective dates; and providing expiration dates.

Referred to Committee on Appropriations.

SB 5277 by Senators Wilson, L., Dozier, Lovelett, Lovick, Muzzall, Shewmake, Torres, Wagoner and Warnick

AN ACT Relating to extending tax preferences for dairy, fruit and vegetable, and seafood processors; amending RCW 82.04.4268, 82.04.4266, 82.04.4269, and 82.04.260; creating a new section; and providing expiration dates.

Referred to Committee on Finance.

ESSB 5293 by Senate Committee on Ways & Means (originally sponsored by Rolfes, Robinson, Kuderer, Nobles and Van De Wege)

AN ACT Relating to accounts; amending RCW 43.41.450, 41.06.280, 41.06.285, 82.25.015, 41.05.120, 28A.505.130,

70A.65.250, 43.84.092, and 43.84.092; reenacting and amending RCW 43.79.567; reenacting RCW 43.330.365; adding new sections to chapter 43.79 RCW; adding a new section to chapter 38.52 RCW; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Appropriations.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

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

REPORTS OF STANDING COMMITTEES

March 31, 2023

HB 1850 Prime Sponsor, Representative Macri:
Concerning the hospital safety net program.
Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Steele; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers, Assistant Ranking Minority Member; and Couture.

Referred to Committee on Rules for second reading

March 30, 2023

SB 5031 Prime Sponsor, Senator Wellman:
Concerning safety net award distributions.
Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.150.392 and 2019 c 387 s 2 are each amended to read as follows:

(1)(a) To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A.150.390.

(b) If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in any fiscal year, then the superintendent shall expend all available federal discretionary funds necessary to meet this need.

(2) Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall award additional funds for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas.

(b) In the determination of need, the committee shall consider additional available revenues from federal sources.

(c) Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(d) In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state revenues related to services for students eligible for special education and all federal revenues from federal impact aid, medicaid, and the individuals with disabilities education act-Part B and appropriate special projects. Awards associated with (e) and (f) of this subsection shall not exceed the total of a district's specific determination of need.

(e) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(f) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, which may include consideration of proximity to group homes, military bases, and regional hospitals. Safety net awards under this subsection (2) (f) shall be adjusted to reflect amounts awarded under (e) of this subsection.

(g) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education served in residential schools as defined in RCW ((28A.190.020)) 28A.190.005, programs for juveniles under the department of corrections, and programs for juveniles operated by city and county jails to the extent they are providing a secondary program of education.

(h) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(i) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent of public instruction in accordance with chapter 318, Laws of 1999.

(j) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(3) The superintendent of public instruction shall adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. By December 1, 2018, the

superintendent shall review and revise the rules to achieve full and complete implementation of the requirements of this subsection and subsection (4) of this section including revisions to rules that provide additional flexibility to access community impact awards. Before revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature. In adopting and revising the rules, the superintendent shall ensure the application process to access safety net funding is streamlined, timelines for submission are not in conflict, feedback to school districts is timely and provides sufficient information to allow school districts to understand how to correct any deficiencies in a safety net application, and that there is consistency between awards approved by school district and by application period. The office of the superintendent of public instruction shall also provide technical assistance to school districts in preparing and submitting special education safety net applications.

(4) On an annual basis, the superintendent shall survey districts regarding their satisfaction with the safety net process and consider feedback from districts to improve the safety net process. Each year by December 1st, the superintendent shall prepare and submit a report to the office of financial management and the appropriate policy and fiscal committees of the legislature that summarizes the survey results and those changes made to the safety net process as a result of the school district feedback.

(5) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff member from the office of the superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(6) Beginning in the 2023-24 school year, the office of the superintendent of public instruction must distribute safety net awards to school districts on a quarterly basis if the following criteria are met:

(a) The safety net award is provided for a high-need student that receives special education services from an approved nonpublic agency located outside of the state of Washington;

(b) The school district successfully applied for and received a safety net award for the high-need student in a prior school year and the student's placement has not changed since that safety net award was granted;

(c) The safety net award is provided to a school district with fewer than 3,000 annual full-time equivalent enrolled students; and

(d) The school district meets all other safety net award eligibility requirements as determined by the safety net oversight committee.

(7) Beginning in the 2019-20 school year, a high-need student is eligible for safety

net awards from state funding under subsection (2) (e) and (g) of this section if the student's individualized education program costs exceed two and three-tenths times the average per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the every student succeeds act of 2015."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 1, 2023

2SSB 5046 Prime Sponsor, Ways & Means: Concerning postconviction access to counsel. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chandler; Connors; Couture; Dye; Harris; Rude; Sandlin; Schmick; and Steele.

Referred to Committee on Rules for second reading

March 30, 2023

SB 5070 Prime Sponsor, Senator Nobles: Concerning victims of nonfatal strangulation. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

March 31, 2023

SB 5104 Prime Sponsor, Senator Salomon: Surveying Puget Sound marine shoreline habitat. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that marine nearshore habitat in Puget Sound is important for the recovery of threatened and endangered species of salmon, orcas, and marine birds. Critical nearshore components include forage fish spawning

habitat, submerged aquatic vegetation, benthic substrate, adjacent upland vegetation, and the geomorphic processes that support a healthy ecosystem and food web. Establishing and regularly updating a publicly available baseline survey and map of general shoreline conditions, including the presence, location, and condition of nearshore development, is a critical tool for regulatory planning and restoration and mitigation opportunity identification by state agencies, local jurisdictions, tribal governments, and nongovernmental organizations.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21A RCW to read as follows:

(1) The department must conduct and maintain a baseline survey of Puget Sound marine shorelines that utilizes new technology to capture georeferenced oblique aerial and 360 degree on-the-water imagery. Nothing in this section creates a requirement for the department to perform change analysis. However, the software used must have the capacity for change analysis review. These identified technologies are intended to be a minimum requirement and the department may utilize and incorporate additional tools and technologies as they become available. The survey must document and map existing general shoreline conditions, structures, and structure conditions. This information must be available to the public and incorporated into state geographic information system mapping with visual personally identifiable information removed from on-the-water imagery prior to posting.

(2) The initial marine oblique aerial and on-the-water imagery must be completed and publicly available by December 31, 2024, and updated on a regular two-year cycle thereafter. The survey to document and map existing shoreline conditions, structures, and structure conditions must be completed and publicly available by June 30, 2025, and updated on a regular two-year cycle thereafter.

(3) For the purposes of this section, "Puget Sound" means Puget Sound and related inland salt waters of the state of Washington inside the boundary line between Washington and British Columbia, the Strait of Juan de Fuca, Hood Canal, and the San Juan Islands.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Senn; Simmons; Slatter; Steele; Stonier and Tharinger.

MINORITY recommendation: Without recommendation.
Signed by Representatives Couture; Sandlin; and Schmick.

Referred to Committee on Rules for second reading

March 31, 2023

E2SSB 5144 Prime Sponsor, Ways & Means: Providing for responsible environmental management of batteries. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. INTENT. The legislature finds that:

(1) It is in the public interest of the citizens of Washington to encourage the recovery and reuse of materials, such as metals, that replace the output of mining and other extractive industries.

(2) Without a dedicated battery stewardship program, battery user confusion regarding proper disposal options will continue to persist.

(3) Ensuring the proper handling, recycling, and end-of-life management of used batteries prevents the release of toxic materials into the environment and removes materials from the waste stream that, if mishandled, may present safety concerns to workers, such as by igniting fires at solid waste handling facilities. For this reason, batteries should not be placed into commingled recycling containers or disposed of via traditional garbage collection containers.

(4) Jurisdictions around the world have successfully implemented battery stewardship laws that have helped address the challenges posed by the end-of-life management of batteries. Because it is difficult for customers to differentiate between types and chemistries of batteries, it is the best practice for battery stewardship programs to collect all battery types and chemistries. Furthermore, it is appropriate for larger batteries used in emerging market sectors such as electric vehicles, solar power arrays, and data centers, to be managed to ensure environmentally positive outcomes similar to those achieved by a battery stewardship program, both because of the potential economic value of large batteries used for these purposes and the anticipated profusion of these larger batteries as these market sectors mature.

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

(1) (a) "Battery-containing product" means a product that contains or is packaged with rechargeable or primary batteries that are covered batteries.

(b) A "battery-containing product" does not include a covered electronic product

under an approved plan implemented under chapter 70A.500 RCW.

(2) "Battery management hierarchy" means a management system of covered batteries prioritized in descending order as follows:

(a) Waste prevention and reduction;

(b) Reuse, when reuse is appropriate;

(c) Recycling, as defined in this chapter; and

(d) Other means of end-of-life management, which may only be utilized after demonstrating to the department that it is not feasible to manage the batteries under the higher priority options in (a) through (c) of this subsection.

(3) "Battery stewardship organization" means a producer that directly implements a battery stewardship plan required under this chapter or a nonprofit organization designated by a producer or group of producers to implement a battery stewardship plan required under this chapter.

(4) "Collection rate" means a percentage, by weight, that a battery stewardship organization collects that is calculated by dividing the total weight of primary and rechargeable batteries collected during the previous calendar year by the average annual weight of primary and rechargeable batteries that were estimated to have been sold in the state by all producers participating in an approved battery stewardship plan during the previous three calendar years.

(5) (a) "Covered battery" means a portable battery or, beginning January 1, 2029, a medium format battery.

(b) "Covered battery" does not include:

(i) A battery contained within a medical device, as specified in Title 21 U.S.C. Sec. 321(h) as it existed as of the effective date of this section, that is not designed and marketed for sale or resale principally to consumers for personal use;

(ii) A battery that contains an electrolyte as a free liquid;

(iii) A lead acid battery weighing greater than 11 pounds;

(iv) A battery subject to the provisions of RCW 70A.205.505 through 70A.205.530; and

(v) A battery in a battery-containing product that is not intended or designed to be easily removable from the battery-containing product.

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

(7) "Easily removable" means designed by the manufacturer to be removable by the user of the product with no more than commonly used household tools.

(8) "Environmentally sound management practices" means practices that: (a) Comply with all applicable laws and rules to protect workers, public health, and the environment; (b) provide for adequate recordkeeping, tracking, and documenting of the fate of materials within the state and beyond; and (c) include comprehensive liability coverage for the battery stewardship organization, including environmental liability coverage that is commercially practicable.

(9) "Final disposition" means the final processing of a collected battery to produce usable end products, at the point where the battery has been reduced to its constituent parts, reusable portions made available for

use, and any residues handled as wastes in accordance with applicable law.

(10) "Large format battery" means:

(a) A rechargeable battery that weighs more than 25 pounds or has a rating of more than 2,000 watt-hours; or

(b) A primary battery that weighs more than 25 pounds.

(11) "Medium format battery" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing more than 11 pounds or has a rating of more than 300 watt-hours, or both, and no more than 25 pounds and has a rating of no more than 2,000 watt-hours;

(b) For primary batteries, a battery weighing more than 4.4 pounds but not more than 25 pounds.

(12) "Portable battery" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing no more than 11 pounds and has a rating of no more than 300 watt-hours;

(b) For primary batteries, a battery weighing no more than 4.4 pounds.

(13) "Primary battery" means a battery that is not capable of being recharged.

(14) (a) "Producer" means the following person responsible for compliance with requirements under this chapter for a covered battery or battery-containing product sold, offered for sale, or distributed in or into this state:

(i) For covered batteries:

(A) If the battery is sold under the brand of the battery manufacturer, the producer is the person that manufactures the battery;

(B) If the battery is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(i)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the battery is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(i)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the battery into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the battery in this state;

(E) If there is no person described in (a)(i)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the battery in or into this state.

(ii) For covered battery-containing products:

(A) If the battery-containing product is sold under the brand of the product manufacturer, the producer is the person that manufactures the product;

(B) If the battery-containing product is sold under a retail brand or under a brand owned by a person other than the

manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(ii)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(ii)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the product in this state;

(E) If there is no person described in (a)(ii)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the product in or into this state;

(F) A producer does not include any person who only manufactures, sells, offers for sale, distributes, or imports into the state a battery-containing product if the only batteries used by the battery-containing product are supplied by a producer that has joined a registered battery stewardship organization as the producer for that covered battery under this chapter. Such a producer of covered batteries that are included in a battery-containing product must provide written certification of that membership to both the producer of the covered battery-containing product and the battery stewardship organization of which the battery producer is a member.

(b) A person is the "producer" of a covered battery or covered battery-containing product sold, offered for sale, or distributed in or into this state, as defined in (a) of this subsection, except where another party has contractually accepted responsibility as a responsible producer and has joined a registered battery stewardship organization as the producer for that covered battery or covered battery-containing product under this chapter.

(15) "Program" means a program implemented by a battery stewardship organization consistent with an approved battery stewardship plan.

(16) "Rechargeable battery" means a battery that contains one or more voltaic or galvanic cells, electrically connected to produce electric energy, designed to be recharged.

(17) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than:

(a) Combustion;

(b) Incineration;

(c) Energy generation;

(d) Fuel production; or

(e) Beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover.

(18) "Recycling efficiency rate" means the ratio of the weight of covered battery components and materials recycled by a program operator from covered batteries to

the weight of those covered batteries collected by the program operator.

(19) "Retailer" means a person who sells covered batteries or battery-containing products in or into this state or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses, for use by the customer in this state.

(20) "Urban area" means an area delineated by the United States census bureau, based on a minimum threshold of 2,000 housing units or 5,000 people, as of January 1, 2023.

NEW SECTION. Sec. 3. REQUIREMENT THAT PRODUCERS IMPLEMENT A STEWARDSHIP PLAN. Beginning January 1, 2027:

(1) Each producer selling, making available for sale, or distributing covered batteries or battery-containing products in or into the state of Washington shall participate in an approved Washington state battery stewardship plan through participation in and appropriate funding of a battery stewardship organization; and

(2) A producer that does not participate in a battery stewardship organization and battery stewardship plan may not sell covered batteries or battery-containing products covered by this chapter in or into Washington.

NEW SECTION. Sec. 4. ROLE OF RETAILERS. (1) Beginning July 1, 2027, for portable batteries, and July 1, 2029, for medium format batteries, a retailer may not sell, offer for sale, distribute, or otherwise make available for sale a covered battery or battery-containing product unless the producer of the covered battery or battery-containing product certifies to the retailer that the producer participates in a battery stewardship organization whose plan has been approved by the department.

(2) A retailer is in compliance with the requirements of subsection (1) of this section and is not subject to penalties under section 12 of this act as long as the website made available by the department under section 11 of this act lists, as of the date a product is made available for retail sale, a producer or brand of covered battery or battery-containing product sold by the retailer as being a participant in an approved plan or the implementer of an approved plan.

(3) Retailers of covered batteries or battery-containing products are not required to make retail locations available to serve as collection sites for a stewardship program operated by a battery stewardship organization. Retailers that serve as a collection site must comply with the requirements for collection sites, consistent with section 8 of this act.

(4) A retailer may not sell, offer for sale, distribute, or otherwise make available for sale covered batteries, unless those batteries are marked consistent with the requirements of section 14 of this act. A producer of a battery-containing product containing a covered battery must certify to the retailers of their product that the battery contained in the battery-containing

product is marked consistent with the requirements of section 14 of this act. A retailer may rely on this certification for purposes of compliance under this subsection.

(5) A retailer selling or offering covered batteries or battery-containing products for sale in Washington may provide information, provided to the retailer by the battery stewardship organization, regarding available end-of-life management options for covered batteries collected by the battery stewardship organization. The information that a battery stewardship organization must make available to retailers for voluntary use by retailers must include, but is not limited to, in-store signage, written materials, and other promotional materials that retailers may use to inform customers of the available end-of-life management options for covered batteries collected by the battery stewardship organization.

(6) Retailers, producers, or battery stewardship organizations may not charge a specific point-of-sale fee to consumers to cover the administrative or operational costs of the battery stewardship organization or the battery stewardship program.

NEW SECTION. Sec. 5. STEWARDSHIP PLAN COMPONENTS. (1) By July 1, 2026, or within six months of the adoption of rules under section 11 of this act, whichever comes later, each battery stewardship organization must submit a plan for covered portable batteries to the department for approval. Within 24 months of the date of the initial adoption of rules under this chapter by the department, each battery stewardship organization must submit a plan for covered medium format batteries to the department for approval. A battery stewardship organization may submit a plan at any time to the department for review and approval. The department must review and may approve a plan based on whether it contains and adequately addresses the following components:

(a) Lists and provides contact information for each producer, battery brand, and battery-containing product brand covered in the plan;

(b) Proposes performance goals, consistent with section 6 of this act, including establishing performance goals for each of the next three upcoming calendar years of program implementation;

(c) Describes how the battery stewardship organization will make retailers aware of their obligation to sell only covered batteries and battery-containing products of producers participating in an approved plan;

(d) Describes the education and communications strategy being implemented to effectively promote participation in the approved covered battery stewardship program and provide the information necessary for effective participation of consumers, retailers, and others;

(e) Describes how the battery stewardship organization will make available to retailers, for voluntary use, in-store signage, written materials, and other promotional materials that retailers may use

to inform customers of the available end-of-life management options for covered batteries collected by the battery stewardship organization;

(f) Lists promotional activities to be undertaken, and the identification of consumer awareness goals and strategies that the program will employ to achieve these goals after the program begins to be implemented;

(g) Includes collection site safety training procedures related to covered battery collection activities at collection sites, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire, and a protocol for safe management of damaged batteries that are returned to collection sites;

(h) Describes the method to establish and administer a means for fully funding the program in a manner that equitably distributes the program's costs among the producers that are part of the battery stewardship organization. For producers that elect to meet the requirements of this chapter individually, without joining a battery stewardship organization, the plan must describe the proposed method to establish and administer a means for fully funding the program;

(i) Describes the financing methods used to implement the plan, consistent with section 7 of this act, including how producer fees and fee modulation will incorporate design for recycling and resource conservation as objectives, and a template reimbursement agreement, developed in consultation with local governments and other program stakeholders;

(j) Describes how the program will collect all covered battery chemistries and brands on a free, continuous, convenient, visible, and accessible basis, and consistent with the requirements of section 8 of this act, including a description of how the statewide convenience standard will be met and a list of collection sites, including the address and latitude and longitude of collection sites;

(k) Describes the criteria to be used in the program to determine whether an entity may serve as a collection site for discarded batteries under the program;

(l) Establishes collection goals for each of the first three years of implementation of the battery stewardship plan that are based on the estimated total weight of primary and rechargeable covered batteries that have been sold in the state in the previous three calendar years by the producers participating in the battery stewardship plan;

(m) Identifies proposed brokers, transporters, processors, and facilities to be used by the program for the final disposition of batteries and how collected batteries will be managed in:

(i) An environmentally sound and socially just manner at facilities operating with human health and environmental protection standards that are broadly equivalent to or better than those required in the United States and other countries that are members of the battery stewardship organization for economic cooperation and development; and

(ii) A manner consistent with the battery management hierarchy, including how each proposed facility used for the final disposition of batteries will recycle or otherwise manage batteries;

(n) Details how the program will achieve a recycling efficiency rate, calculated consistent with section 10 of this act, of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries;

(o) Proposes goals for increasing public awareness of the program, including subgoals applicable to public awareness of the program in vulnerable populations and overburdened communities identified by the department under chapter 70A.02 RCW, and describes how the public education and outreach components of the program under section 9 of this act will be implemented; and

(p) Specifies procedures to be employed by a local government seeking to coordinate with a battery stewardship organization pursuant to section 8(4)(c) of this act.

(2) If required by the department, a battery stewardship organization must submit a new plan to the department for approval:

(a) If there are significant changes to the methods of collection, transport, or end-of-life management of covered batteries under section 8 of this act that are not provided for in the plan. The department may, by rule, identify the types of significant changes that require a new plan to be submitted to the department for approval. For purposes of this subsection, adding or removing a processor or transporter under the plan is not considered a significant change that requires a plan resubmittal;

(b) To address the novel inclusion of medium format batteries or large format batteries as covered batteries under the plan; and

(c) No less than every five years.

(3) If required by the department, a battery stewardship organization must provide plan amendments to the department for approval:

(a) When proposing changes to the performance goals under section 6 of this act based on the up-to-date experience of the program;

(b) When there is a change to the method of financing plan implementation under section 7 of this act. This does not include changes to the fees or fee structure established in the plan; or

(c) When adding or removing a processor or transporter, as part of a quarterly update submitted to the department.

(4) As part of a quarterly update, a battery stewardship organization must notify the department after a producer begins or ceases to participate in a battery stewardship organization. The quarterly update submitted to the department must also include a current list of the producers and brands participating in the plan.

(5) No earlier than five years after the initial approval of a plan, the department may require a battery stewardship organization to submit a revised plan, which may include improvements to the collection site network or increased expenditures

dedicated to education and outreach if the approved plan has not met the performance goals under section 6 of this act.

NEW SECTION. Sec. 6. STEWARDSHIP PROGRAM COMPONENTS—PERFORMANCE GOALS. (1) Each battery stewardship plan must include performance goals that measure, on an annual basis, the achievements of the program. Performance goals must take into consideration technical feasibility and economic practicality in achieving continuous, meaningful progress in improving:

(a) The rate of battery collection for recycling in Washington;

(b) The recycling efficiency of the program; and

(c) Public awareness of the program.

(2) The performance goals established in each battery stewardship plan must include, but are not limited to:

(a) Target collection rates;

(b) Target recycling efficiency rates of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries; and

(c) Goals for public awareness, convenience, and accessibility that meet or exceed the minimum requirements established in section 8 of this act.

NEW SECTION. Sec. 7. STEWARDSHIP PROGRAM COMPONENTS—FUNDING. (1) Each battery stewardship organization must ensure adequate funding is available to fully implement approved battery stewardship plans, including the implementation of aspects of the plan addressing:

(a) Battery collection, transporting, and processing;

(b) Education and outreach;

(c) Program evaluation; and

(d) Payment of the administrative fees to the department under section 11 of this act.

(2) A battery stewardship organization implementing a battery stewardship plan on behalf of producers must develop, and continually improve over the years of program implementation, a system to collect charges from participating producers to cover the costs of plan implementation in an environmentally sound and socially just manner that encourages the use of design attributes that reduce the environmental impacts of covered batteries, such as through the use of eco-modulated fees. Examples of fee structures that meet the requirements of this subsection include using eco-modulated fees to:

(a) Encourage designs intended to facilitate reuse and recycling;

(b) Encourage the use of recycled content;

(c) Discourage the use of problematic materials that increase system costs of managing covered batteries; and

(d) Encourage other design attributes that reduce the environmental impacts of covered batteries.

(3)(a) Except for costs incurred by a local government or local government facility exercising the authority specified in section 8(4)(c) of this act, each battery

stewardship organization is responsible for all costs of participating covered battery collection, transportation, processing, education, administration, agency reimbursement, recycling, and end-of-life management in accordance with the battery management hierarchy and environmentally sound management practices.

(b) Each battery stewardship organization must meet the collection goals as specified in section 5 of this act.

(c) A battery stewardship organization is not authorized to reduce or cease collection, education and outreach, or other activities implemented under an approved plan based on achievement of program performance goals.

(4)(a) Except for costs incurred by a local government or local government facility exercising the authority granted by section 8(4)(c) of this act, a battery stewardship organization must reimburse local governments for demonstrable costs, as defined by rules adopted by the department, incurred as a result of a local government facility or solid waste handling facility serving as a collection site for a program including, but not limited to, associated labor costs and other costs associated with accessibility and collection site standards such as storage.

(b) Except as to the costs of containers and other materials and services requirements addressed by a local government or local government facility exercising the authority granted by section 8(4)(c) of this act, a battery stewardship organization shall at a minimum provide collection sites with appropriate containers for covered batteries subject to its program, training, signage, safety guidance, and educational materials, at no cost to the collection sites.

(c) A battery stewardship organization must include in its battery stewardship plan a template of the service agreement and any other forms, contracts, or other documents for use in distribution of reimbursements. The service agreement template must be developed with local government input. The entities seeking or receiving reimbursement from the battery stewardship organization are not required to use the template agreement included in the program plan and are not limited to the terms of the template agreement included in the program plan.

NEW SECTION. Sec. 8. STEWARDSHIP PROGRAM COMPONENTS—COLLECTION AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations implementing a battery stewardship plan must provide for the collection of all covered batteries, including all chemistries and brands of covered batteries, on a free, continuous, convenient, visible, and accessible basis to any person, business, government agency, or nonprofit organization. Except as provided in subsection (2)(b) of this section, each battery stewardship plan must allow any person, business, government agency, or nonprofit organization to discard each chemistry and brand of covered battery at each collection site that counts towards the

satisfaction of the collection site criteria in subsection (3) of this section.

(2)(a) Except for local government collection described in subsection (4)(c) of this section, for each collection site utilized by the program, each battery stewardship organization must provide suitable collection containers for covered batteries that are segregated from other solid waste or make mutually agreeable alternative arrangements for the collection of batteries at the site. The location of collection containers at each collection site used by the program must be within view of a responsible person and must be accompanied by signage made available to the collection site by the battery stewardship organization that informs customers regarding the end-of-life management options for batteries provided by the collection site under this chapter. Each collection site must adhere to the operations manual and other safety information provided to the collection site by the battery stewardship organization.

(b) Medium format batteries may only be collected at household hazardous waste collection sites or other sites that are staffed by persons who are certified to handle and ship hazardous materials under federal regulations adopted by the United States department of transportation pipeline and hazardous materials safety administration.

(c)(i) Damaged and defective batteries are intended to be collected at collection sites staffed by persons trained to handle and ship those batteries.

(ii) Each battery stewardship organization must provide for collection of damaged and defective batteries in each county of the state, either through collection sites or collection events with qualified staff as specified in (c)(i) of this subsection. Collection events should be provided periodically throughout the year where practicable, but must be provided at least once per year at a minimum, in each county in which there are not permanent collection sites providing for the collection of damaged and defective batteries.

(iii) As used in this subsection, "damaged and defective batteries" means batteries that have been damaged or identified by the manufacturer as being defective for safety reasons, that have the potential of producing a dangerous evolution of heat, fire, or short circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1, 2023, or as updated by the department by rule to maintain consistency with federal standards.

(3)(a) Each battery stewardship organization implementing a battery stewardship plan shall ensure statewide collection opportunities for all covered batteries. Battery stewardship organizations shall coordinate activities with other program operators, including covered battery collection and recycle programs and electronic waste recyclers, with regard to the proper management or recycling of collected covered batteries, for purposes of providing the efficient delivery of services and avoiding unnecessary duplication of

effort and expense. Statewide collection opportunities must be determined by geographic information modeling that considers permanent collection sites. A program may rely, in part, on collection events to supplement the permanent collection services required in (a) and (b) of this subsection. However, only permanent collection services specified in (a) and (b) of this subsection qualify towards the satisfaction of the requirements of this subsection.

(b) For portable batteries, each battery stewardship organization must provide statewide collection opportunities that include, but are not limited to, the provision of:

(i) At least one permanent collection site for portable batteries within a 15 mile radius for at least 95 percent of Washington residents;

(ii) The establishment of collection sites that are accessible and convenient to overburdened communities identified by the department under chapter 70A.02 RCW, in an amount that is roughly proportional to the number and population of overburdened communities identified by the department under chapter 70A.02 RCW relative to the population or size of the state as a whole;

(iii) At least one permanent collection site for portable batteries in addition to those required in (b)(i) of this subsection for every 30,000 residents of each urban area in this state. For the purposes of compliance with this subsection (3)(b)(iii), a battery stewardship organization and the department may rely upon new or updated designations of urban locations by the United States census bureau that are determined by the department to be similar to the definition of urban areas in section 2 of this act;

(iv) Collection opportunities for portable batteries at special locations where batteries are often spent and replaced, such as supervised locations at parks with stores and campgrounds; and

(v) Service to areas without a permanent collection site, including service to island and geographically isolated communities without a permanent collection site.

(c) For medium format batteries, a battery stewardship organization must provide statewide collection opportunities that include, but are not limited to, the provision of:

(i) At least 25 permanent collection sites in Washington;

(ii) Reasonable geographic dispersion of collection sites throughout the state;

(iii) A collection site in each county of at least 200,000 persons, as determined by the most recent population estimate of the office of financial management;

(iv) The establishment of collection sites that are accessible to public transit and that are convenient to overburdened communities identified by the department under chapter 70A.02 RCW; and

(v) Service to areas without a permanent collection site, including service to island and geographically isolated communities. A battery stewardship organization must ensure that there is a collection site or annual collection event in each county of the

state. Collection events should be provided periodically throughout the year where practicable, but must be provided at least once per year at a minimum in each county in which there are not permanent collection sites providing for the collection of damaged and defective batteries.

(4) (a) Battery stewardship programs must use existing public and private waste collection services and facilities, including battery collection sites that are established through other battery collection services, transporters, consolidators, processors, and retailers, where cost-effective, mutually agreeable, and otherwise practicable.

(b) (i) Battery stewardship programs must use as a collection site for covered batteries any retailer, wholesaler, municipality, solid waste management facility, or other entity that meets the criteria for collection sites in the approved plan, upon the submission of a request by the entity to the battery stewardship organization to serve as a collection site.

(ii) Battery stewardship programs must use as a site for a collection event for covered batteries any retailer, wholesaler, municipality, solid waste management facility, or other entity that meets the criteria for collection events in the approved plan, upon the submission of a request by the entity to the battery stewardship organization to serve as a site for a collection event. A signed agreement between a battery stewardship organization and the entity requesting to hold a collection event must be established at least 60 days prior to any collection of covered batteries under a stewardship program. All costs associated with collection events initiated by an entity other than a battery stewardship organization are the sole responsibility of the entity unless otherwise agreed upon by a battery stewardship organization. A collection event under this subsection (4) (b) (ii) must allow any person to discard each chemistry and brand of covered battery at the collection event.

(c) (i) A local government facility may collect batteries at its own expense through a collection site or temporary collection event that is not a collection site or event under the program implemented by a battery stewardship organization. A local government facility that collects covered batteries under this subsection must, in accordance with procedures set forth in battery stewardship organization plans approved by the department:

(A) Notify battery stewardship organizations of the local government facility's decision to operate a collection site that is not a collection site under a program established under this chapter;

(B) Collect each chemistry and brand of covered battery at its collection site or sites;

(C) Collect, sort, and package collected materials in a manner that meets the standards established in a battery stewardship organization plan approved by the department;

(D) Either provide the collected batteries to the battery stewardship organization in lawful transportation containers for it to transfer the collected batteries at a processing facility the battery stewardship organization has approved, or transport to, or arrange for the transportation of collected batteries for processing at a facility that a battery stewardship organization has approved under a plan approved by the department.

(ii) A local government facility that collects materials at a collection site or temporary collection event operating outside of a battery stewardship program must also report, to a battery stewardship organization, information necessary for the battery stewardship organization to fulfill its reporting obligations under section 10 of this act. A battery stewardship organization may count materials collected by a local government facility under this subsection (4) (c) towards the achievement of performance requirements established in section 6 of this act.

(d) A battery stewardship organization may suspend or terminate a collection site or service that does not adhere to the collection site criteria in the approved plan or that poses an immediate health and safety concern.

(5) (a) Stewardship programs are not required to provide for the collection of battery-containing products.

(b) Stewardship programs are not required to provide for the collection of batteries that:

(i) Are not easily removable from the product other than by the manufacturer; and

(ii) Remain contained in a battery-containing product at the time of delivery to a collection site.

(c) Stewardship programs are required to provide for the collection of loose batteries.

(d) Stewardship programs are not required to provide for the collection of batteries still contained in covered electronic products under chapter 70A.500 RCW.

(6) Batteries collected by the program must be managed consistent with the battery management hierarchy. Lower priority end-of-life battery management options on the battery management hierarchy may be used by a program only when a battery stewardship organization documents to the department that all higher priority battery management options on the battery management hierarchy are not technologically feasible or economically practical.

NEW SECTION. Sec. 9. STEWARDSHIP PROGRAM COMPONENTS—EDUCATION AND OUTREACH REQUIREMENTS. (1) Each battery stewardship organization must carry out promotional activities in support of plan implementation including, but not limited to, the development:

(a) And maintenance of a website;

(b) And distribution of periodic press releases and articles;

(c) And placement of advertisements for use on social media or other relevant media platforms;

(d) Of promotional materials about the program and the restriction on the disposal of covered batteries in section 15 of this act to be used by retailers, government agencies, and nonprofit organizations;

(e) And distribution of collection site safety training procedures that are in compliance with state law to collection sites to help ensure proper management of covered batteries at collection sites; and

(f) And implementation of outreach and educational resources targeted to overburdened communities and vulnerable populations identified by the department under chapter 70A.02 RCW that are conceptually, linguistically, and culturally accurate for the communities served and reach the state's diverse ethnic populations, including through meaningful consultation with communities that bear disproportionately higher levels of adverse environmental and social justice impacts.

(2) Each battery stewardship organization must provide:

(a) Consumer-focused educational promotional materials to each collection site used by the program and accessible by customers of retailers that sell covered batteries or battery-containing products; and

(b) Safety information related to covered battery collection activities to the operator of each collection site, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire.

(3) (a) Each battery stewardship organization must provide educational materials to the operator of each collection site for the management of recalled batteries, which are not intended to be part of collection as provided under section 8 of this act, to help facilitate transportation and processing of recalled batteries.

(b) A battery stewardship organization may seek reimbursement from the producer of the recalled battery for expenses incurred in the collection, transportation, or processing of those batteries.

(4) Upon request by a retailer, the battery stewardship organization must provide the retailer educational materials describing collection opportunities for batteries.

(5) If multiple battery stewardship organizations are implementing plans approved by the department, the battery stewardship organizations must coordinate in carrying out their education and outreach responsibilities under this section and must include in their annual reports to the department under section 10 of this act a summary of their coordinated education and outreach efforts.

(6) During the first year of program implementation and every five years thereafter, each battery stewardship organization must carry out a survey of public awareness regarding the requirements of the program established under this chapter, including the provisions of section 15 of this act. Each battery stewardship organization must share the results of the public awareness surveys with the department.

NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1, 2028, and each June 1st thereafter, each battery stewardship organization must submit an annual report to the department covering the preceding calendar year of battery stewardship plan implementation. The report must include:

(a) An independent financial assessment of a program implemented by the battery stewardship organization, including a breakdown of the program's expenses, such as collection, recycling, education, and overhead, when required by the department;

(b) A summary financial statement documenting the financing of a battery stewardship organization's program and an analysis of program costs and expenditures, including an analysis of the program's expenses, such as collection, transportation, recycling, education, and administrative overhead. The summary financial statement must be sufficiently detailed to provide transparency that funds collected from producers as a result of their activities in Washington are spent on program implementation in Washington. Battery stewardship organizations implementing similar battery stewardship programs in multiple states may submit a financial statement including all covered states, as long as the statement breaks out financial information pertinent to Washington;

(c) The weight, by chemistry, of covered batteries collected under the program;

(d) The weight of materials recycled from covered batteries collected under the program, in total, and by method of battery recycling;

(e) A calculation of the recycling efficiency rates, as measured consistent with subsection (2) of this section;

(f) For each facility used for the final disposition of batteries, a description of how the facility recycled or otherwise disposed of batteries and battery components;

(g) The weight and chemistry of batteries sent to each facility used for the final disposition of batteries. The information in this subsection (1)(g) may be approximated for program operations in Washington based on extrapolations of national or regional data for programs in operation in multiple states;

(h) The collection rate achieved under the program, including a description of how this collection rate was calculated;

(i) The estimated aggregate sales, by weight and chemistry, of batteries and batteries contained in or with battery-containing products sold in Washington by participating producers for each of the previous three calendar years;

(j) A description of the manner in which the collected batteries were managed and recycled, including a discussion of best available technologies and the recycling efficiency rate;

(k) A description of education and outreach efforts supporting plan implementation including, but not limited to, a summary of education and outreach provided to consumers, collection sites, manufacturers, distributors, and retailers

by the program operator for the purpose of promoting the collection and recycling of covered batteries, a description of how that education and outreach met the requirements of section 9 of this act, samples of education and outreach materials, a summary of coordinated education and outreach efforts with any other battery stewardship organizations implementing a plan approved by the department, and a summary of any changes made during the previous calendar year to education and outreach activities;

(l) A list of all collection sites and accompanying latitude and longitude data and an address for each listed site, and an up-to-date map indicating the location of all collection sites used to implement the program, with links to appropriate websites where there are existing websites associated with a site;

(m) A description of methods used to collect, transport, and recycle covered batteries by the battery stewardship organization;

(n) A summary on progress made towards the program performance goals established under section 6 of this act, and an explanation of why performance goals were not met, if applicable; and

(o) An evaluation of the effectiveness of education and outreach activities.

(2) The weight of batteries or recovered resources from those batteries must only be counted once and may not be counted by more than one battery stewardship organization.

(3) In addition to the requirements of subsection (1) of this section, with respect to each facility used in the processing or disposition of batteries collected under the program, the battery stewardship organization must report:

(a) Whether the facility is located domestically, in an organization for economic cooperation and development country, or in a country that meets organization for economic cooperation and development operating standards; and

(b) What facilities processed the batteries, including a summary of any violations of environmental or labor laws and regulations over the previous three years at each facility.

(4) If a battery stewardship organization has disposed of covered batteries through energy recovery, incineration, or landfilling during the preceding calendar year of program implementation, the annual report must specify the steps that the battery stewardship organization will take to make the recycling of covered batteries cost-effective, where possible, or to otherwise increase battery recycling rates achieved by the battery stewardship organization.

(5) A producer or battery stewardship organization that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director of the department, or the appropriate division of the department. The director of the department must consider the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A

RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. **Sec. 11. FEE AND DEPARTMENT OF ECOLOGY ROLE.** (1) The department must adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter. The department must by rule establish fees, to be paid annually by a battery stewardship organization, that are adequate to cover the department's full costs of implementing, administering, and enforcing this chapter and allocates costs between battery stewardship organizations, if applicable. If the department adopts rules that require producers of certain large format batteries or other battery categories addressed in section 16 of this act to participate in a battery stewardship organization regulated by the department, the department may establish fees to be paid annually by a battery stewardship organization that are adequate to cover the department's full costs of implementing, administering, and enforcing the requirements of this chapter applicable to those batteries. All fees must be based on costs related to implementing, administering, and enforcing this chapter, not to exceed expenses incurred by the department for these activities.

(2) The responsibilities of the department in implementing, administering, and enforcing this chapter include, but are not limited to:

(a) Reviewing submitted stewardship plans and plan amendments and making determinations as to whether to approve the plan or plan amendment;

(i) The department must provide a letter of approval for the plan or plan amendment if it provides for the establishment of a stewardship program that meets the requirements of sections 3 through 9 of this act;

(ii) If a plan or plan amendment is rejected, the department must provide the reasons for rejecting the plan to the battery stewardship organization. The battery stewardship organization must submit a new plan within 60 days after receipt of the letter of disapproval; and

(iii) When a plan or an amendment to an approved plan is submitted under this section, the department shall make the proposed plan or amendment available for public review and comment for at least 30 days;

(b) Reviewing annual reports submitted under section 10 of this act within 90 days of submission to ensure compliance with that section;

(c) (i) Maintaining a website that lists producers and their brands that are participating in an approved plan, and that makes available to the public each plan, plan amendment, and annual report received by the department under this chapter;

(ii) Upon the date the first plan is approved, the department must post on its website a list of producers and their brands for which the department has approved a plan. The department must update the list of producers and brands participating under an

approved program plan based on information provided to the department from battery stewardship organizations; and

(d) Providing technical assistance to producers and retailers related to the requirements of this chapter and issuing orders or imposing civil penalties authorized under section 12 of this act where the technical assistance efforts do not lead to compliance by a producer or retailer.

(3) Beginning January 1, 2032, and every five years thereafter, after consultation with battery stewardship organizations, the department may by rule increase the minimum recycling efficiency rates established in section 6 of this act based on the most economically and technically feasible processes and methodology available.

NEW SECTION. Sec. 12. PENALTIES AND CIVIL ACTION PROVISIONS. (1) (a) A battery stewardship organization implementing an approved plan may bring a civil action or actions to recover costs, damages, and fees, as specified in this section, from a producer who sells or otherwise makes available in Washington covered batteries, battery-containing products, or large format batteries not included in an approved plan in violation of the requirements of this chapter. An action under this section may be brought against one or more defendants. An action may only be brought against a defendant producer when the stewardship program incurs costs in Washington, including reasonable incremental administrative and program promotional costs, in excess of \$1,000 to collect, transport, and recycle or otherwise dispose of the covered batteries, battery-containing products, or large format batteries of a nonparticipating producer.

(b) A battery stewardship organization may bring a civil action against a producer of a recalled battery to recover costs associated with handling a recalled battery.

(c) A battery stewardship organization implementing an approved stewardship plan may bring a civil action against another battery stewardship organization that under performs on its battery collection obligations under this chapter by failing to collect and provide for the end-of-life management of batteries in an amount roughly equivalent to costs imposed on the plaintiff battery stewardship organization by virtue of the failures of the defendants, plus legal fees and expenses.

(d) The remedies provided in this subsection are in addition to the enforcement authority of the department and do not limit and are not limited by a decision by the department to impose a civil penalty or issue an order under subsection (2) of this section. The department is not required to audit, participate in, or provide assistance to a battery stewardship organization pursuing a civil action authorized under this subsection.

(2) (a) The department may administratively impose a civil penalty on a person who violates this chapter in an amount of up to \$1,000 per violation per day.

(b) The department may administratively impose a civil penalty of up to \$10,000 per violation per day on a person for repeated violations of this chapter or failure to comply with an order issued under (c) of this subsection.

(c) Whenever on the basis of any information the department determines that a person has violated or is in violation of this chapter, the department may issue an order requiring compliance. A person who fails to take corrective action as specified in a compliance order is liable for a civil penalty as provided in (b) of this subsection, without receiving a written warning prescribed in (e) of this subsection.

(d) A person who is issued an order or incurs a penalty under this section may appeal the order or penalty to the pollution control hearings board established by chapter 43.21B RCW.

(e) Prior to imposing penalties under this section, the department must provide a producer, retailer, or battery stewardship organization with a written warning for the first violation by the producer, retailer, or battery stewardship organization of the requirements of this chapter. The written warning must inform a producer, retailer, or battery stewardship organization that it must participate in an approved plan or otherwise come into compliance with the requirements of this chapter within 30 days of the notice. A producer, retailer, or battery stewardship organization that violates a provision of this chapter after the initial written warning may be assessed a penalty as provided in this subsection.

(3) Penalties levied under subsection (2) of this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(4) No penalty may be assessed on an individual or resident for the improper disposal of covered batteries as described in section 15 of this act in a noncommercial or residential setting.

NEW SECTION. Sec. 13. RESPONSIBLE BATTERY MANAGEMENT ACCOUNT. The responsible battery management account is created in the custody of the state treasurer. All receipts from fees paid under this chapter must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Moneys in the account may be used solely by the department for administering, implementing, and enforcing the requirements of this chapter. Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

NEW SECTION. Sec. 14. MARKING REQUIREMENTS FOR BATTERIES. (1) Beginning January 1, 2028, a producer or retailer may only sell, distribute, or offer for sale in or into Washington a large format battery, covered battery, or battery-containing product that contains a battery that is

designed or intended to be easily removable from the product, if the battery is:

(a) Marked with an identification of the producer of the battery, unless the battery is less than one-half inch in diameter or does not contain a surface whose length exceeds one-half inch; and

(b) Beginning January 1, 2030, marked with proper labeling to ensure proper collection and recycling, by identifying the chemistry of the battery and including an indication that the battery should not be disposed of as household waste.

(2) A producer shall certify to its customers, or to the retailer if the retailer is not the customer, that the requirements of this section have been met, as provided in section 4 of this act.

(3) The department may amend, by rule, the requirements of subsection (1) of this section to maintain consistency with the labeling requirements or voluntary standards for batteries established in federal law.

NEW SECTION. Sec. 15. GENERAL BATTERY DISPOSAL AND COLLECTION REQUIREMENTS. Effective July 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented under this chapter by a battery stewardship organization, whichever comes first:

(1) All persons must dispose of unwanted covered batteries through one of the following disposal options:

(a) Disposal using the collection sites established by or included in the programs created by this chapter;

(b) For covered batteries generated by persons that are regulated generators of covered batteries under federal or state hazardous or solid waste laws, disposal in a manner consistent with the requirements of those laws; or

(c) Disposal using local government collection facilities that collect batteries consistent with section 8(4)(c) of this act.

(2)(a) A fee may not be charged at the time unwanted covered batteries are delivered or collected for management.

(b) All covered batteries may only be collected, transported, and processed in a manner that meets the standards established for a battery stewardship organization in a plan approved by the department, unless the batteries are being managed as described in subsection (1)(b) of this section.

(3) A person may not place covered batteries in waste containers for disposal at incinerators, waste to energy facilities, or landfills.

(4) A person may not place covered batteries in or on a container for mixed recyclables unless there is a separate location or compartment for the covered battery that complies with local government collection standards or guidelines.

(5) An owner or operator of a solid waste facility may not be found in violation of this section if the facility has posted in a conspicuous location a sign stating that covered batteries must be managed through collection sites established by a battery stewardship organization and are not accepted for disposal.

(6) A solid waste collector may not be found in violation of this section for a covered battery placed in a disposal container by the generator of the covered battery.

NEW SECTION. Sec. 16. DEPARTMENT ASSESSMENT OF LARGE FORMAT BATTERIES, MEDICAL DEVICES, LEAD ACID BATTERIES, AND BATTERY-CONTAINING PRODUCTS AND THEIR BATTERIES. (1) By July 1, 2027, the department must complete an assessment of the opportunities and challenges associated with the end-of-life management of batteries that are not covered batteries, including:

(a) Large format batteries;

(b) Lead acid batteries that are greater than 11 pounds or are subject to the provisions of RCW 70A.205.505 through 70A.205.530;

(c) Batteries contained in medical devices, as specified in Title 21 U.S.C. Sec. 360c as it existed as of the effective date of this section that are not designed and marketed for sale or resale principally to consumers for personal use; and

(d) Batteries not intended or designed to be easily removed by a customer that are contained in battery-containing products, including medical devices, and in electronic products that are not covered electronic products managed under an approved plan implemented under chapter 70A.500 RCW.

(2) The department must consult with the department of commerce and interested stakeholders in completing the assessment, including consultation with overburdened communities and vulnerable populations identified by the department under chapter 70A.02 RCW. The assessment must identify any needed adjustments to the stewardship program requirements established in this chapter that are necessary to maximize public health, safety, and environmental benefits, such as battery reuse.

(3) The assessment must consider:

(a) The different categories and uses of batteries and battery-containing products listed in subsection (1) of this section;

(b) The current economic value and reuse or recycling potential of large format batteries or large format battery components and a summary of studies examining the environmental and equity implications of displacing demand for new rare earth materials, critical materials, and other conflict materials through the reuse and recycling of batteries;

(c) The current methods by which unwanted batteries and battery-containing products listed in subsection (1) of this section are managed in Washington and nearby states and provinces;

(d) Challenges posed by the potential collection, management, and transport of batteries and battery-containing products listed in subsection (1) of this section, including challenges associated with removing batteries that were not intended or designed to be easily removable from products, other than by the manufacturer; and

(e) Which criteria of this chapter should apply to batteries and battery-containing products listed in subsection (1) of this

section in a manner that is identical or analogous to the requirements applicable to covered batteries.

(4) By October 1, 2027, the department must submit a report to the appropriate committees of the legislature containing the findings of the assessment required in this section.

NEW SECTION. Sec. 17. DEPARTMENT OF ECOLOGY RECOMMENDATIONS FOR MANAGEMENT OF ELECTRIC VEHICLE BATTERIES. (1) By November 30, 2023, the department of ecology must submit a report to the appropriate committees of the legislature on preliminary policy recommendations for the collection and management of electric vehicle batteries. By April 30, 2024, the department of ecology must report to the appropriate committees of the legislature on final policy recommendations for the collection and management of electric vehicle batteries.

(2) In developing the recommendations under subsection (1) of this section, the department of ecology must:

(a) Solicit input from representatives of automotive wrecking and salvage yards, solid waste collection and processing companies, local governments, environmental organizations, electric vehicle manufacturers, and any other interested parties; and

(b) Examine best practices in other states and jurisdictions.

NEW SECTION. Sec. 18. ANTITRUST. Producers or battery stewardship organizations acting on behalf of producers that prepare, submit, and implement a battery stewardship program pursuant to this chapter and who are thereby subject to regulation by the department are granted immunity from state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade and commerce, for the limited purpose of planning, reporting, and operating a battery stewardship program, including:

(1) The creation, implementation, or management of a battery stewardship organization and any battery stewardship plan regardless of whether it is submitted, denied, or approved;

(2) The determination of the cost and structure of a battery stewardship plan; and

(3) The types or quantities of batteries being recycled or otherwise managed pursuant to this chapter.

NEW SECTION. Sec. 19. AUTHORITY OF THE UTILITIES AND TRANSPORTATION COMMISSION. Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide the service itself or by contract under RCW 81.77.020.

Sec. 20. RCW 43.21B.110 and 2022 c 180 s 812 are each 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 70A.15 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, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 12 of this act, 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, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, section 12 of this act, 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 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) 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 70A.205.145.

(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.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

(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 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, 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. 21. RCW 43.21B.300 and 2022 c 180 s 813 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 12 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and

under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority 30 days after the date of receipt by the person penalized of the notice imposing the penalty or 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) (~~Thirty~~) 30 days after receipt of the notice imposing the penalty;

(b) (~~Thirty~~) 30 days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) (~~Thirty~~) 30 days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within 30 days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.245.040 and 70A.245.050, which shall be credited to the recycling enhancement account created in RCW 70A.245.100, RCW 70A.300.090 and section 12 of this act, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 70A.65.200, which shall be credited to the climate investment account created in RCW 70A.65.250, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

NEW SECTION. Sec. 22. A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to the receipts of a battery stewardship organization formed under chapter 70A.---

RCW (the new chapter created in section 23 of this act) from charges to participating producers under a battery stewardship program as provided in section 7 of this act.

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808 and is not subject to an expiration date.

(3) The definitions in section 2 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. Sec. 23. CODIFICATION. Sections 1 through 16, 18, and 19 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. Sec. 24. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Rude; Sandlin; Schmick; and Steele.

Referred to Committee on Rules for second reading

March 30, 2023

SSB 5189 Prime Sponsor, Health & Long Term Care: Establishing behavioral health support specialists. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that a behavioral health support specialist is a new member of the workforce in Washington state trained in the competencies developed by the University of Washington behavioral health support specialist clinical training program. The behavioral health support specialist clinical training program is characterized by brief, evidence-based interventions delivered to the intensity and expected duration of the behavioral health problem. The approach features routine outcome monitoring and regular, outcome-focused supervision. Use of behavioral health support specialists in Washington is expected to improve access to behavioral health services and ease workforce shortages while helping behavioral health professionals work at the top of their scope of practice.

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

(1) "Adult" means a person 18 years of age or older.

(2) "Applicant" means a person who completes the required application, pays the required fee, is at least 18 years of age, and meets any background check requirements and uniform disciplinary act requirements.

(3) "Behavioral health" is a term that encompasses mental health, substance use, and co-occurring disorders.

(4) "Behavioral health support specialist" means a person certified to deliver brief, evidence-based interventions with a scope of practice that includes behavioral health under the supervision of a Washington state credentialed provider who has the ability to assess, diagnose, and treat identifiable mental and behavioral health conditions as part of their scope of practice. A behavioral health support specialist does not have within their scope of practice the ability to make diagnoses but does track and monitor treatment response and outcomes using measurement-based care.

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

(6) "Registered apprenticeship" means an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

(7) "Secretary" means the secretary of health or the secretary's designee.

NEW SECTION. Sec. 3. The department shall collaborate with the University of Washington department of psychiatry and behavioral sciences and consult with other stakeholders to develop rules to implement this chapter by January 1, 2025, which shall be consistent with the University of Washington behavioral health support specialist clinical training program guidelines, and shall include appropriate standards for approval of educational programs for behavioral health support specialists, which shall include a practicum component and may be integrated into a bachelor's degree program or structured as a postbaccalaureate continuing education program or registered apprenticeship in combination with an approved bachelor's degree or postbaccalaureate certificate.

NEW SECTION. Sec. 4. A person may not represent themselves as a behavioral health support specialist without being certified by the department.

NEW SECTION. Sec. 5. Nothing in this chapter shall be construed to prohibit or restrict delivery of behavioral health interventions by an individual otherwise regulated under this title and performing services within their authorized scope of practice.

NEW SECTION. Sec. 6. In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter. Any rules adopted shall be in consultation with the University of Washington;

(2) Establish all certification, examination, and renewal fees in accordance with RCW 43.70.250;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Issue certifications to applicants who have met the education, which may include registered apprenticeships, practicum, and examination requirements for certification and to deny a certification to applicants who do not meet the requirements;

(5) Develop, administer, and supervise the grading and taking of an examination for applicants for certification;

(6) Adopt rules requiring completion of 20 hours of continuing education every two years after initial certification for certification renewal;

(7) Maintain the official record of all applicants and certification holders; and

(8) Establish by rule the procedures for an appeal of an examination failure.

NEW SECTION. Sec. 7. The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certification, and the discipline of persons certified under this chapter. The secretary shall be the disciplinary authority under this chapter.

NEW SECTION. Sec. 8. The secretary shall issue a certification to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements:

(1) Graduation from a bachelor's degree program;

(2) Successful completion of a behavioral health support specialist program that is approved to meet standards consistent with the University of Washington behavioral health support specialist clinical training program guidelines, including a supervised clinical practicum with demonstrated clinical skills in core competencies; and

(3) Successful completion of an approved jurisprudential examination.

NEW SECTION. Sec. 9. (1) The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for certification shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designee shall examine each applicant, by means determined to be most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a

period of not less than one year after the secretary has made and published the decisions. All examinations shall be conducted using fair and wholly impartial methods.

(4) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the certification requirements.

NEW SECTION. Sec. 10. Applications for certification shall be submitted on forms provided by the secretary. The secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee shall accompany the application.

NEW SECTION. Sec. 11. The health care authority shall take any steps which are necessary and proper to ensure that the services of behavioral health support specialists are covered under the state medicaid program by January 1, 2025.

NEW SECTION. Sec. 12. A new section is added to chapter 48.43 RCW to read as follows:

By July 1, 2025, every carrier shall provide access to services provided by behavioral health support specialists in a manner sufficient to meet the network access standards set forth in rules established by the office of the insurance commissioner.

Sec. 13. RCW 18.130.040 and 2021 c 179 s 7 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates— independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ~~(and)~~

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Behavioral health support specialists certified under chapter 18.--- RCW (the new chapter created in section 15 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

Sec. 14. RCW 18.130.040 and 2022 c 217 s 5 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates— independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW;

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; ~~((and))~~

(xxvii) Birth doula certified under chapter 18.47 RCW; and

(xxviii) Behavioral health support specialists certified under chapter 18.--- RCW (the new chapter created in section 15 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. Sec. 15. Sections 1 through 11 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 16. Section 13 of this act expires October 1, 2023.

NEW SECTION. Sec. 17. Section 14 of this act takes effect October 1, 2023."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

March 31, 2023

SSB 5208 Prime Sponsor, State Government & Elections: Updating the process for online voter registration by allowing voter applicants to provide the last four digits of social security number for authentication. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on State Government & Tribal Relations. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Sandlin; Schmick; and Steele.

MINORITY recommendation: Without recommendation. Signed by Representatives Harris; and Rude.

Referred to Committee on Rules for second reading

March 31, 2023

E2SSB 5236 Prime Sponsor, Ways & Means: Concerning hospital staffing standards. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Senn; Simmons; Slatter; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Chandler; Couture; Dye; Harris; Schmick; and Steele.

Referred to Committee on Rules for second reading

March 31, 2023

SB 5242 Prime Sponsor, Senator Cleveland: Prohibiting cost sharing for abortion. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Harris; Rude; Sandlin; Schmick; and Steele.

Referred to Committee on Rules for second reading

March 31, 2023

ESSB 5301 Prime Sponsor, Housing: Concerning housing programs administered by the department of commerce. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.185.010 and 1991 c 356 s 1 are each amended to read as follows:

The legislature finds that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of low and very low-income persons to obtain safe, decent, and affordable housing.

The legislature further finds that members of over ~~((one hundred twenty thousand households live in housing units which are overcrowded, lack plumbing, are otherwise threatening to health and safety, and have rents and utility payments which exceed thirty percent of their income))~~ 150,000 households pay more than 50 percent of their income for rent and housing costs.

The legislature further finds that minorities, rural households, and migrant farmworkers require housing assistance at a rate which significantly exceeds their proportion of the general population.

The legislature further finds that one of the most dramatic housing needs is that of persons needing special housing-related services, such as ~~((the mentally ill))~~ individuals with mental illness, recovering alcoholics, frail elderly persons, families with members who have disabilities, and single parents. These services include medical assistance, counseling, chore services, and child care.

The legislature further finds that ~~((housing assistance programs in the past have often failed to help those in greatest need))~~ state investments in affordable housing, as enabled by the legislature in 1986, have exceeded \$1,800,000,000 to provide over 55,000 units of safe and affordable housing to low-income individuals.

~~((The legislature declares that it is in the public interest to establish a continuously renewable resource known as the housing trust fund and housing assistance program to assist low and very low-income citizens in meeting their basic housing needs, and that the needs of very low-income citizens should be given priority and that whenever feasible, assistance should be in the form of loans.))~~

Sec. 2. RCW 43.185.030 and 2016 sp.s. c 36 s 936 are each amended to read as follows:

There is hereby created in the state treasury an account to be known as the Washington housing trust fund. The housing

trust fund shall include revenue from the sources established by this chapter, appropriations by the legislature, private contributions, repayment of loans, and all other sources. ~~((During the 2015-2017 fiscal biennium, the legislature may transfer from the Washington housing trust fund to the home security fund account and to the state general fund such amounts as reflect the excess balance in the fund.))~~

Sec. 3. RCW 43.185.050 and 2021 c 332 s 7032 and 2021 c 130 s 5 are each reenacted and amended to read as follows:

(1) The department must use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loan~~((s))~~ or grant projects that will provide affordable housing for persons and families with special housing needs and ~~((with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located))~~ who are low-income households.

(2) At least thirty percent of these moneys used in any given funding cycle must be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

~~((2))~~(3) The department must prioritize allocating at least, but not limited to, 10 percent of these moneys used in any given funding cycle to organizations that serve and are substantially governed by individuals disproportionately impacted by homelessness, including black, indigenous, and other people of color and, lesbian, gay, bisexual, queer, transgender, and other gender-diverse individuals.

(4) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) ~~((Rent subsidies;~~

~~(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;~~

~~(d) Technical))~~ Preconstruction technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

~~((e))~~ (c) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

~~((f))~~ (d) Shelters ((and related services)) for the homeless, including emergency shelters and overnight youth shelters;

~~((g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;~~

~~(h) Mortgage insurance guarantee or payments for eligible projects;~~

~~(i) Down payment or closing cost assistance for eligible first-time home buyers;~~

~~(j))~~ (e) Down payment or closing costs assistance for low-income first-time home buyers;

~~(f) Acquisition of housing units for the purpose of preservation as low-income ((or very low-income)) housing;~~

~~((k))~~ (g) Projects making affordable housing projects more accessible to ((families)) low-income households with members who have disabilities; and

~~((l))~~ (h) Remodeling and improvements as required to meet building code, licensing requirements, or legal operations to residential properties owned and operated by an entity eligible under RCW 43.185A.040, which were transferred as described in RCW 82.45.010(3)(t) by the parent of a child with developmental disabilities.

~~((3) Preference must be given for projects that include an early learning facility, as defined in RCW 43.31.565.~~

~~(4))~~ (5) (a) Legislative appropriations from capital bond proceeds may be used ((only)) for the costs of projects authorized under subsection ((2)(a), (i), and (j)) (4) of this section, ((and not for the administrative costs of the department,)) except ((that during the 2021-2023 fiscal biennium, the)) for costs of subsection (4)(c) of this section.

(b) The department may use up to three percent of the appropriations from capital bond proceeds or other new appropriations for affordable housing investments for administrative costs associated with application, distribution, and project development activities of the affordable housing ((assistance)) program.

(c) Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

~~((5))~~ (6) (a) Moneys received from repayment of housing trust fund loans ((from appropriations from capital bond proceeds)) or other affordable housing appropriations may be used for all activities necessary for the proper functioning of the affordable housing ((assistance)) program ((except for activities authorized under subsection (2)(b) and (c) of this section)), including, but not limited to, providing preservation funding, as provided in section 12 of this act, and preconstruction technical assistance as provided in RCW 43.185.080 (as recodified by this act).

~~((6) Administrative costs associated with application, distribution, and project development activities of the department may not exceed three percent of the annual funds available for the housing assistance program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.~~

~~(7))~~ (b) Administrative costs associated with compliance and monitoring activities of the department may not exceed ((one-quarter)) four-tenths of one percent annually of the contracted amount of state investment

in ~~((the housing assistance program))~~ affordable housing programs.

Sec. 4. RCW 43.185.070 and 2019 c 325 s 5013 are each amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the affordable housing (assistance) program, the department must announce to all known interested parties, and ~~((through major media throughout the state))~~ on its website, a grant and loan application period of at least ~~((ninety))~~ 60 days' duration. This announcement must be made as often as the director deems appropriate for proper utilization of resources. The department must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department as provided in RCW 43.185.050 (as recodified by this act).

(2) In awarding funds under this chapter, the department must:

(a) Provide for a geographic distribution on a statewide basis; and

(b) ~~((Until June 30, 2013, consider))~~ Consider the total cost and per-unit cost of each project for which an application is submitted for funding ~~((under RCW 43.185.050(2) (a) and (j))~~), as compared to similar housing projects constructed or renovated within the same geographic area.

(3) ~~((The department, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board, must report recommendations for awarding funds in a cost-effective manner. The report must include an implementation plan, timeline, and any other items the department identifies as important to consider to the legislature by December 1, 2012.~~

(4) ~~The department must give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities must be evaluated under subsection (5) of this section. Second priority must be given to activities and projects which utilize existing publicly owned housing stock.)~~ All projects and activities must be evaluated by some or all of the criteria under subsection ~~((5))~~ (6) of this section, and similar projects and activities shall be evaluated under the same criteria.

(4) The department must use a separate application form for applications to provide homeownership opportunities and evaluate homeownership project applications as allowed under chapter 43.185A RCW.

(5) The department must collaborate with public entities that finance affordable housing, including the housing finance commission, cities, and counties, in

conducting joint application reviews and coordinate funding decisions in a timely manner.

(6) The department must give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities must be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least ~~((twenty-five))~~ 40 years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which ~~((are under))~~ fulfill statutory mandates to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020;

(m) Project location and access to available public transportation services; ~~((and))~~

(n) Projects involving collaborative partnerships between local school districts and either public housing authorities or nonprofit housing providers, that help children of low-income families succeed in school. To receive this preference, the local school district must provide an opportunity for community members to offer input on the proposed project at the first scheduled school board meeting following submission of the grant application to the department;

(o) The degree of funding that has already been committed to the project by nonstate entities;

(p) Projects that demonstrate a strong readiness to proceed to construction; and

(q) Projects that include a licensed early learning facility.

(7) Once the department has determined the prioritization of applications, the department must award funding projects at a sufficient level to complete the financing package necessary for an applicant to move forward with the affordable housing project.

(8) The department may not establish a maximum per-applicant award.

Sec. 5. RCW 43.185.074 and 1987 c 513 s 11 are each amended to read as follows:

The director shall designate grant and loan applications for approval and for funding under the revenue from remittances made pursuant to RCW ~~((18.85.310. These applications shall then be reviewed for final approval by the broker's trust account board created by RCW 18.85.500.~~

~~The director shall submit to the broker's trust account board within any fiscal year only such applications which in their aggregate total funding requirements do not exceed the revenue to the housing trust fund [fund] from remittances made pursuant to RCW 18.85.310 for the previous fiscal year)) 18.85.285.~~

Sec. 6. RCW 43.185.080 and 1991 c 356 s 6 are each amended to read as follows:

(1) The department may use moneys from the housing trust fund and other legislative appropriations, ~~((but not appropriations from capital bond proceeds,))~~ to provide preconstruction technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low and low-income persons. The department shall emphasize providing preconstruction technical assistance services to rural areas and small cities and towns, to nonprofits serving marginalized communities without a history of receiving housing trust fund or other affordable housing investments, and to other nonprofit community organizations led by and for black, indigenous, and persons of color. The department may contract with private and nonprofit organizations to provide this technical assistance. The department may contract for any of the following services:

(a) Financial planning and packaging for housing projects, including alternative ownership programs, such as limited equity partnerships and syndications;

(b) Project design, architectural planning, and siting;

(c) Compliance with planning requirements;

(d) Securing matching resources for project development;

(e) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, locally and state-managed funds, zoning variances, or creative local planning;

(f) Coordination with local planning, economic development, and environmental, social service, and recreational activities;

(g) Construction and materials management; and

(h) Project maintenance and management.

(2) The department shall publish requests for proposals which specify contract performance standards, award criteria, and contractor requirements. In evaluating proposals, the department shall consider the ability of the contractor to provide technical assistance to low and very low-income persons and to persons with special housing needs.

Sec. 7. RCW 43.185A.010 and 2013 c 145 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing for rental occupancy which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the ~~((family's))~~ household's income. The department must adopt policies for residential homeownership housing, occupied by low-income households, which specify the percentage of family income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

(2) "Contracted amount" ~~((has the same meaning as provided in RCW 43.185.020))~~ means the aggregate amount of all state funding for which the department has monitoring and compliance responsibility.

(3) "Department" means the department of commerce.

(4) "Director" means the director of the department of commerce.

(5) "First-time home buyer" means ~~((an individual or his or her spouse or domestic partner who have not owned a home during the three-year period prior to purchase of a home))~~;

(a) An individual or the individual's spouse who has had no ownership in a principal residence during the three-year period ending on the date of purchase of the property;

(b) A single parent who has only owned a home with a former spouse while married;

(c) An individual who is a displaced homemaker as defined in 24 C.F.R. Sec. 93.2 as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and has only owned a home with a spouse;

(d) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; or

(e) An individual who has only owned a property that is determined by a licensed building inspector as being uninhabitable.

(6) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located.

Sec. 8. RCW 43.185A.020 and 1995 c 399 s 103 are each amended to read as follows:

The affordable housing program is created in the department for the purpose of developing and preserving affordable housing and coordinating public and private resources targeted to meet the affordable housing needs of low-income households in the state of Washington. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020.

Sec. 9. RCW 43.185A.060 and 1991 c 356 s 15 are each amended to read as follows:

The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW ~~((43.185A.030(2) (a), (b), (c), (d), and (e)))~~ 43.185.050(4) (as recodified by this act). These policies may include, but are not limited to: (1) Requiring payment to the state of a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. The policies must require projects to remain as affordable housing for a minimum of 40 years except for projects that provide homes for low-income first-time home buyers, which must remain affordable for a minimum of 25 years.

Sec. 10. RCW 43.185A.070 and 1991 c 356 s 16 are each amended to read as follows:

~~((The))~~ (1) To the extent funds are appropriated for this purpose, the director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan.

(2) Personally identifiable information of occupants or prospective tenants of affordable housing or the street address of the residential real property occupied or applied for by tenants or prospective tenants of affordable housing, obtained by the department of commerce during monitoring activities or contract administration are exempt from inspection and copying under section 11 of this act.

NEW SECTION. Sec. 11. A new section is added to chapter 42.56 RCW to read as follows:

Information obtained by the department of commerce under chapter 43.185A RCW during monitoring activities or contract administration that reveals the name or other personal information of occupants or prospective tenants of affordable housing, or the street address of the residential real property occupied or applied for by tenants or prospective tenants of affordable housing, is exempt from disclosure under this chapter.

NEW SECTION. Sec. 12. A new section is added to chapter 43.185A RCW to read as follows:

(1) In order to maintain the long-term viability of affordable housing, using funding from the housing trust fund account established under RCW 43.185.030 (as recodified by this act) or from other legislative appropriations, the department may make competitive grant or loan awards to projects in need of major building

improvements, preservation repairs, or system replacements.

(2) The department must solicit and review applications and evaluate projects based on the following criteria:

(a) The age of the property, with priority given to buildings that are more than 15 years old;

(b) The population served, with priority given to projects serving persons or families with the lowest incomes;

(c) The degree to which the applicant demonstrates that the improvements will result in a reduction of operating or utility costs, or both;

(d) The potential for additional years added to the affordability commitment period of the property; and

(e) Other criteria that the department considers necessary to achieve the purpose of the housing trust fund program.

(3) The department must require an award recipient to submit a property capital needs assessment, in a form acceptable to the department, prior to contract execution.

NEW SECTION. Sec. 13. A new section is added to chapter 43.185A RCW to read as follows:

(1) The department must report on its website on an annual basis, for each funding cycle:

(a) The number of homeownership and multifamily rental projects funded;

(b) The percentage of funding allocated to homeownership and multifamily rental projects; and

(c) For both homeownership and multifamily rental projects, the total number of households being served at up to 80 percent of the area median income, up to 50 percent of the area median income, and up to 30 percent of the area median income.

(2) All housing trust fund loan or grant recipients, except for those receiving preservation awards under section 12 of this act, must provide certified final development cost reports to the department in a form acceptable to the department. The department must use the certified final development cost reports data as part of its cost containment policy and to report to the legislature. Beginning December 1, 2023, and continuing every odd-numbered year, the department must provide the appropriate committees of the legislature with a report of its final cost data for each project funded through the housing trust fund. Such cost data must, at a minimum, include:

(a) Total development cost per unit for each project completed within the past two complete fiscal years; and

(b) Descriptive statistics such as average and median per unit costs, regional cost variation, and other costs that the department deems necessary to improve cost controls and enhance understanding of development costs.

(3) The department must coordinate with the housing finance commission to identify relevant development costs data and ensure that the measures are consistent across relevant agencies.

Sec. 14. RCW 18.85.311 and 2008 c 23 s 38 are each amended to read as follows:

Remittances received by the state treasurer pursuant to RCW 18.85.285 shall be divided between the housing trust fund created by RCW 43.185.030 (as recodified by this act), which shall receive seventy-five percent and the real estate education program account created by RCW 18.85.321, which shall receive twenty-five percent.

Sec. 15. RCW 31.04.025 and 2015 c 229 s 20 are each amended to read as follows:

(1) Each loan made to a resident of this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter.

(2) This chapter does not apply to the following:

(a) Any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions;

(b) Entities making loans under chapter 19.60 RCW (pawnbroking);

(c) Entities conducting transactions under chapter 63.14 RCW (retail installment sales of goods and services), unless credit is extended to purchase merchandise certificates, coupons, open or closed loop stored value, or other similar items issued and redeemable by a retail seller other than the retail seller extending the credit;

(d) Entities making loans under chapter 31.45 RCW (check cashers and sellers);

(e) Any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary dwelling;

(f) Any person selling property owned by that person who provides financing for the sale when the property does not contain a dwelling and when the property serves as security for the financing. This exemption is available for five or fewer transactions in a calendar year. This exemption is not available to individuals subject to the federal S.A.F.E. act or any person in the business of constructing or acting as a contractor for the construction of residential dwellings;

(g) Any person making loans made to government or government agencies or instrumentalities or making loans to organizations as defined in the federal truth in lending act;

(h) Entities making loans under chapter ~~((43.185))~~43.185A RCW (housing trust fund);

(i) Entities making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;

(j) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or

repairing housing or the development of housing for low-income Washington state residents;

(k) Entities making loans which are not residential mortgage loans under a credit card plan;

(l) Individuals employed by a licensed residential mortgage loan servicing company engaging in activities related to servicing, unless licensing is required by federal law or regulation; and

(m) Entities licensed under chapter 18.44 RCW that process payments on seller-financed loans secured by liens on real or personal property.

(3) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers.

(4) The burden of proving the application for an exemption or exception from a definition, or a preemption of a provision of this chapter, is upon the person claiming the exemption, exception, or preemption.

(5) The director may adopt rules interpreting this section.

Sec. 16. RCW 39.35D.080 and 2005 c 12 s 12 are each amended to read as follows:

Except as provided in this section, affordable housing projects funded out of the state capital budget are exempt from the provisions of this chapter. On or before July 1, 2008, the department of ~~((community, trade, and economic development))~~commerce shall identify, implement, and apply a sustainable building program for affordable housing projects that receive housing trust fund (under chapter ~~((43.185))~~43.185A RCW) funding in a state capital budget. The department of ~~((community, trade, and economic development))~~commerce shall not develop its own sustainable building standard, but shall work with stakeholders to adopt an existing sustainable building standard or criteria appropriate for affordable housing. Any application of the program to affordable housing, including any monitoring to track the performance of either sustainable features or energy standards or both, is the responsibility of the department of ~~((community, trade, and economic development))~~commerce. Beginning in 2009 and ending in 2016, the department of ~~((community, trade, and economic development))~~commerce shall report to the department as required under RCW 39.35D.030 (3) (b).

Sec. 17. RCW 43.63A.680 and 1993 c 478 s 19 are each amended to read as follows:

(1) The department may develop and administer a home-matching program for the purpose of providing grants and technical assistance to eligible organizations to operate local home-matching programs. For purposes of this section, "eligible organizations" are those organizations eligible to receive assistance through the Washington housing trust fund, chapter ~~((43.185))~~43.185A RCW.

(2) The department may select up to five eligible organizations for the purpose of implementing a local home-matching program. The local home-matching programs are designed to facilitate: (a) Intergenerational homesharing involving older homeowners sharing homes with younger persons; (b) homesharing arrangements that involve an exchange of services such as cooking, housework, gardening, or babysitting for room and board or some financial consideration such as rent; and (c) the more efficient use of available housing.

(3) In selecting local pilot programs under this section, the department shall consider:

(a) The eligible organization's ability, stability, and resources to implement the local home-matching program;

(b) The eligible organization's efforts to coordinate other support services needed by the individual or family participating in the local home-matching program; and

(c) Other factors the department deems appropriate.

(4) The eligible organizations shall establish criteria for participation in the local home-matching program. The eligible organization shall make a determination of eligibility regarding the individuals' or families' participation in the local home-matching program. The determination shall include, but is not limited to a verification of the individual's or family's history of making rent payments in a consistent and timely manner.

Sec. 18. RCW 43.79.201 and 2016 sp.s. c 36 s 930 are each amended to read as follows:

(1) The charitable, educational, penal and reformatory institutions account is hereby created, in the state treasury, into which account there shall be deposited all moneys arising from the sale, lease or transfer of the land granted by the United States government to the state for charitable, educational, penal and reformatory institutions by section 17 of the enabling act, or otherwise set apart for such institutions, except all moneys arising from the sale, lease, or transfer of that certain one hundred thousand acres of such land assigned for the support of the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893.

(2) If feasible, not less than one-half of all income to the charitable, educational, penal, and reformatory institutions account shall be appropriated for the purpose of providing housing, including repair and renovation of state institutions, for persons with mental illness or developmental disabilities, or youth who are blind, deaf, or otherwise disabled. If moneys are appropriated for community-based housing, the moneys shall be appropriated to the department of commerce for the housing assistance program under chapter ~~((43-185))~~ 43.185A RCW. During the 2015-2017 fiscal biennium, the legislature may transfer from the charitable, educational, penal and reformatory

institutions account to the state general fund such amounts as reflect excess fund balance of the account.

Sec. 19. RCW 43.185C.200 and 2007 c 483 s 604 are each amended to read as follows:

(1) The department of ~~((community, trade, and economic development))~~ commerce shall establish a pilot program to provide grants to eligible organizations, as described in RCW ~~((43.185.060))~~ 43.185A.040, to provide transitional housing assistance to offenders who are reentering the community and are in need of housing.

(2) There shall be a minimum of two pilot programs established in two counties. The pilot programs shall be selected through a request for proposal process and in consultation with the department of corrections. The department shall select the pilot sites by January 1, 2008.

(3) The pilot program shall:

(a) Be operated in collaboration with the community justice center existing in the location of the pilot site;

(b) Offer transitional supportive housing that includes individual support and mentoring available on an ongoing basis, life skills training, and close working relationships with community justice centers and community corrections officers. Supportive housing services can be provided directly by the housing operator, or in partnership with community-based organizations;

(c) In providing assistance, give priority to offenders who are designated as high risk or high needs as well as those determined not to have a viable release plan by the department of corrections;

(d) Optimize available funding by utilizing cost-effective community-based shared housing arrangements or other noninstitutional living arrangements; and

(e) Provide housing assistance for a period of time not to exceed twelve months for a participating offender.

(4) The department may also use up to twenty percent of the funding appropriated in the operating budget for this section to support the development of additional supportive housing resources for offenders who are reentering the community.

(5) The department shall:

(a) Collaborate with the department of corrections in developing criteria to determine who will qualify for housing assistance; and

(b) Gather data, and report to the legislature by November 1, 2008, on the number of offenders seeking housing, the number of offenders eligible for housing, the number of offenders who receive the housing, and the number of offenders who commit new crimes while residing in the housing to the extent information is available.

(6) The department of corrections shall collaborate with organizations receiving grant funds to:

(a) Help identify appropriate housing solutions in the community for offenders;

(b) Where possible, facilitate an offender's application for housing prior to discharge;

(c) Identify enhancements to training provided to offenders prior to discharge that may assist an offender in effectively transitioning to the community;

(d) Maintain communication between the organization receiving grant funds, the housing provider, and corrections staff supervising the offender; and

(e) Assist the offender in accessing resources and services available through the department of corrections and a community justice center.

(7) The state, department of ~~((community, trade, and economic development))~~ commerce, department of corrections, local governments, local housing authorities, eligible organizations as described in RCW ~~((43.185.060))~~ 43.185A.040, and their employees are not liable for civil damages arising from the criminal conduct of an offender solely due to the placement of an offender in housing provided under this section or the provision of housing assistance.

(8) Nothing in this section allows placement of an offender into housing without an analysis of the risk the offender may pose to that particular community or other residents.

Sec. 20. RCW 43.185C.210 and 2020 c 155 s 1 are each amended to read as follows:

(1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW ~~((43.185.060))~~ 43.185A.040, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

(5) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

(6) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living, including housing costs, needed to support: (i) One adult individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program.

Sec. 21. RCW 47.12.063 and 2022 c 186 s 710 are each amended to read as follows:

(1) It is the intent of the legislature to continue the department's policy giving priority consideration to abutting property owners in agricultural areas when disposing

of property through its surplus property program under this section.

(2) Whenever the department determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for transportation purposes and that it is in the public interest to do so, the department may sell the property or exchange it in full or part consideration for land or building improvements or for construction of highway improvements at fair market value to any person through the solicitation of written bids through public advertising in the manner prescribed under RCW 47.28.050 or in the manner prescribed under RCW 47.12.283.

(3) The department may forego the processes prescribed by RCW 47.28.050 and 47.12.283 and sell the real property to any of the following entities or persons at fair market value:

(a) Any other state agency;

(b) The city or county in which the property is situated;

(c) Any other municipal corporation;

(d) Regional transit authorities created under chapter 81.112 RCW;

(e) The former owner of the property from whom the state acquired title;

(f) In the case of residentially improved property, a tenant of the department who has resided thereon for not less than six months and who is not delinquent in paying rent to the state;

(g) Any abutting private owner but only after each other abutting private owner (if any), as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within 15 days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.283;

(h) To any other owner of real property required for transportation purposes;

(i) In the case of property suitable for residential use, any nonprofit organization dedicated to providing affordable housing to very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510 and is eligible to receive assistance through the Washington housing trust fund created in chapter ~~((43.185))~~ 43.185A RCW;

(j) During the 2021-2023 fiscal biennium, any nonprofit organization that identifies real property to be sold or conveyed as a substitute for real property owned by the nonprofit within the city of Seattle to be redeveloped for the purpose of affordable housing; or

(k) A federally recognized Indian tribe within whose reservation boundary the property is located.

(4) When selling real property pursuant to RCW 47.12.283, the department may withhold or withdraw the property from an auction when requested by one of the entities or persons listed in subsection (3) of this section and only after the receipt of a nonrefundable deposit equal to 10 percent of the fair market value of the real property or \$5,000, whichever is less. This subsection does not prohibit the department from exercising its discretion to withhold

or withdraw the real property from an auction if the department determines that the property is no longer surplus or chooses to sell the property through one of the other means listed in subsection (2) of this section. If a transaction under this subsection is not completed within 60 days, the real property must be put back up for sale.

(5) Sales to purchasers may, at the department's option, be for cash, by real estate contract, or exchange of land or highway improvements. Transactions involving the construction of improvements must be conducted pursuant to chapter 47.28 RCW and Title 39 RCW, as applicable, and must comply with all other applicable laws and rules.

(6) Conveyances made pursuant to this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(7) Unless otherwise provided, all moneys received pursuant to the provisions of this section less any real estate broker commissions paid pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund.

(8) The department may not enter into equal value exchanges or property acquisitions for building improvements without first consulting with the office of financial management and the joint transportation committee.

Sec. 22. RCW 59.24.060 and 1995 c 399 s 159 are each amended to read as follows:

The department of ~~((community, trade, and economic development))~~ commerce may receive such gifts, grants, or endowments from public or private sources, as may be made from time to time, in trust or otherwise, to be used by the department of ~~((community, trade, and economic development))~~ commerce for its programs, including the rental security deposit guarantee program. Funds from the housing trust fund, chapter ~~((43.185))~~ 43.185A RCW, up to one hundred thousand dollars, may be used for the rental security deposit guarantee program by the department of ~~((community, trade, and economic development))~~ commerce, local governments, and nonprofit organizations, provided all the requirements of this chapter and chapter ~~((43.185))~~ 43.185A RCW are met.

Sec. 23. RCW 82.14.400 and 2020 c 139 s 24 are each amended to read as follows:

(1) Upon the joint request of a metropolitan park district, a city with a population of more than one hundred fifty thousand, and a county legislative authority in a county with a national park and a population of more than five hundred thousand and less than one million five hundred thousand, the county must submit an authorizing proposition to the county voters, fixing and imposing a sales and use tax in accordance with this chapter for the purposes designated in subsection (4) of this section and identified in the joint request. Such proposition must be placed on a ballot for a special or general election to be held no later than one year after the date of the joint request.

(2) The proposition is approved if it receives the votes of a majority of those voting on the proposition.

(3) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax must equal no more than one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(4) Moneys received from any tax imposed under this section must be used solely for the purpose of providing funds for:

(a) Costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, reequipping, or improvement of zoo, aquarium, and wildlife preservation and display facilities that are currently accredited by the American zoo and aquarium association; or

(b) Those costs associated with (a) of this subsection and costs related to parks located within a county described in subsection (1) of this section.

(5) The department must perform the collection of such taxes on behalf of the county at no cost to the county. In lieu of the charge for the administration and collection of local sales and use taxes under RCW 82.14.050 from which the county is exempt under this subsection (5), a percentage of the tax revenues authorized by this section equal to one-half of the maximum percentage provided in RCW 82.14.050 must be transferred annually to the department of commerce, or its successor agency, from the funds allocated under subsection (6)(b) of this section for a period of twelve years from the first date of distribution of funds under subsection (6)(b) of this section. The department of commerce, or its successor agency, must use funds transferred to it pursuant to this subsection (5) to provide, operate, and maintain community-based housing under chapter ~~((43.185))~~ 43.185A RCW for individuals with mental illness.

(6) If the joint request and the authorizing proposition include provisions for funding those costs included within subsection (4)(b) of this section, the tax revenues authorized by this section must be allocated annually as follows:

(a) Fifty percent to the zoo and aquarium advisory authority; and

(b) Fifty percent to be distributed on a per capita basis as set out in the most recent population figures for unincorporated and incorporated areas only within that county, as determined by the office of financial management, solely for parks, as follows: To any metropolitan park district, to cities and towns not contained within a metropolitan park district, and the remainder to the county. Moneys received under this subsection (6)(b) by a county may not be used to replace or supplant existing per capita funding.

(7) Funds must be distributed annually by the county treasurer to the county, and cities and towns located within the county,

in the manner set out in subsection (6)(b) of this section.

(8) Prior to expenditure of any funds received by the county under subsection (6)(b) of this section, the county must establish a process which considers needs throughout the unincorporated areas of the county in consultation with community advisory councils established by ordinance.

(9) By December 31, 2005, and thereafter, the county or any city with a population greater than eighty thousand must provide at least one dollar match for every two dollars received under this section.

(10) Properties subject to a memorandum of agreement between the federal bureau of land management, the advisory council on historic preservation, and the Washington state historic preservation officer have priority for funding from money received under subsection (6)(b) of this section for implementation of the stipulations in the memorandum of agreement.

(a) At least one hundred thousand dollars of the first four years of allocations under subsection (6)(b) of this section, to be matched by the county or city with one dollar for every two dollars received, must be used to implement the stipulations of the memorandum of agreement and for other historical, archaeological, architectural, and cultural preservation and improvements related to the properties.

(b) The amount in (a) of this subsection must come equally from the allocations to the county and to the city in which the properties are located, unless otherwise agreed to by the county and the city.

(c) The amount in (a) of this subsection may not be construed to displace or be offered in lieu of any lease payment from a county or city to the state for the properties in question.

Sec. 24. RCW 82.45.100 and 2010 1st sp.s. c 23 s 211 are each amended to read as follows:

(1) Payment of the tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within one month thereafter will bear interest from the time of sale until the date of payment.

(a) Interest imposed before January 1, 1999, is computed at the rate of one percent per month.

(b) Interest imposed after December 31, 1998, is computed on a monthly basis at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year. The department must provide written notification to the county treasurers of the variable rate on or before December 1st of the year preceding the calendar year in which the rate applies.

(2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer or the department of revenue, as the case may be, within one month of the date due, there is assessed a penalty of five percent of the amount of the tax; if the tax is not received within two months of the date due, there will be

assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within three months of the date due, there will be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection is collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(3) If the tax imposed under this chapter is not received by the due date, the transferee is personally liable for the tax, along with any interest as provided in subsection (1) of this section, unless an instrument evidencing the sale is recorded in the official real property records of the county in which the property conveyed is located.

(4) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department must assess against the taxpayer the additional amount found to be due plus interest and penalties as provided in subsections (1) and (2) of this section. The department must notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the same becomes due and must be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(5) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of:

(a) Fraud or misrepresentation of a material fact by the taxpayer;

(b) A failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer; or

(c) A failure of the transferor or transferee to report the sale under RCW 82.45.090(2).

(6) Penalties collected on taxes due under this chapter under subsection (2) of this section and RCW 82.32.090 (2) through (8) must be deposited in the housing trust fund as described in chapter ~~((43.185))~~ 43.185A RCW.

Sec. 25. RCW 43.185B.020 and 2022 c 266 s 53 and 2022 c 165 s 8 are each reenacted and amended to read as follows:

(1) The department shall establish the affordable housing advisory board to consist of ~~((23))~~ 25 members.

(a) The following ~~((20))~~ 22 members shall be appointed by the governor:

(i) Two representatives of the residential construction industry;

(ii) Two representatives of the home mortgage lending profession;

(iii) One representative of the real estate sales profession;

(iv) One representative of the apartment management and operation industry;

(v) One representative of the for-profit housing development industry;

(vi) One representative of for-profit rental housing owners;

(vii) One representative of the nonprofit housing development industry;

(viii) One representative of homeless shelter operators;

(ix) One representative of lower-income persons;

(x) One representative of special needs populations;

(xi) One representative of public housing authorities as created under chapter 35.82 RCW;

(xii) Two representatives of the Washington association of counties, one representative shall be from a county that is located east of the crest of the Cascade mountains;

(xiii) Two representatives of the association of Washington cities, one representative shall be from a city that is located east of the crest of the Cascade mountains;

(xiv) One representative to serve as chair of the affordable housing advisory board;

(xv) One representative of organizations that operate site-based permanent supportive housing and deliver onsite supportive housing services; ~~((and))~~

(xvi) One representative at large; ~~((and~~ ~~(xvi)))~~ (xvii) One representative from a unit owners' association as defined in RCW 64.34.020 or 64.90.010; and

(xviii) One representative from an interlocal housing collaboration as established under chapter 39.34 RCW.

(b) The following three members shall serve as ex officio, nonvoting members:

(i) The director or the director's designee;

(ii) The executive director of the Washington state housing finance commission or the executive director's designee; and

(iii) The secretary of social and health services or the secretary's designee.

(2)(a) The members of the affordable housing advisory board appointed by the governor shall be appointed for four-year terms, except that the chair shall be appointed to serve a two-year term. The terms of five of the initial appointees shall be for two years from the date of appointment and the terms of six of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(b) The governor, when making appointments to the affordable housing advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(3) The affordable housing advisory board shall serve as the department's principal advisory body on housing and housing-related issues, and replaces the department's existing boards and task forces on housing and housing-related issues.

(4) The affordable housing advisory board shall meet regularly and may appoint technical advisory committees, which may include members of the affordable housing advisory board, as needed to address specific issues and concerns.

(5) The department, in conjunction with the Washington state housing finance commission and the department of social and

health services, shall supply such information and assistance as are deemed necessary for the advisory board to carry out its duties under this section.

(6) The department shall provide administrative and clerical assistance to the affordable housing advisory board.

NEW SECTION. **Sec. 26.** (1) RCW 43.185.010, 43.185.030, 43.185.050, 43.185.070, 43.185.074, and 43.185.080 are each recodified as sections in chapter 43.185A RCW.

(2) RCW 43.185.110 is recodified as a section in chapter 43.185B RCW.

NEW SECTION. **Sec. 27.** The following acts or parts of acts are each repealed:

(1) RCW 43.185.015 (Housing assistance program) and 1995 c 399 s 100 & 1991 c 356 s 2;

(2) RCW 43.185.020 (Definitions) and 2013 c 145 s 1, 2009 c 565 s 37, 1995 c 399 s 101, & 1986 c 298 s 3;

(3) RCW 43.185.060 (Eligible organizations) and 2019 c 325 s 5012, 2014 c 225 s 61, 1994 c 160 s 2, 1991 c 295 s 1, & 1986 c 298 s 7;

(4) RCW 43.185.076 (Low-income housing grants and loans—Approval—License education programs) and 1988 c 286 s 3 & 1987 c 513 s 10;

(5) RCW 43.185.090 (Compliance monitoring) and 1986 c 298 s 10;

(6) RCW 43.185.100 (Rule-making authority) and 1987 c 513 s 2 & 1986 c 298 s 11;

(7) RCW 43.185.120 (Protection of state's interest) and 1991 c 356 s 7;

(8) RCW 43.185.130 (Application process—Distribution procedure) and 2006 c 349 s 3;

(9) RCW 43.185.140 (Findings—Review of all housing properties—Energy audits) and 2009 c 379 s 301;

(10) RCW 43.185.910 (Conflict with federal requirements—1991 c 356) and 1991 c 356 s 8;

(11) RCW 43.185A.030 (Activities eligible for assistance) and 2013 c 145 s 5 & 2011 1st sp.s. c 50 s 954;

(12) RCW 43.185A.050 (Grant and loan application process—Report) and 2013 c 145 s 6, 2012 c 235 s 2, & 1991 c 356 s 14;

(13) RCW 43.185A.080 (Rules) and 1991 c 356 s 17;

(14) RCW 43.185A.090 (Application process—Distribution procedure) and 2006 c 349 s 4;

(15) RCW 43.185A.100 (Housing programs and services—Review of reporting requirements—Report to the legislature) and 2006 c 349 s 11;

(16) RCW 43.185A.110 (Affordable housing land acquisition revolving loan fund program) and 2017 c 274 s 1, 2008 c 112 s 1, & 2007 c 428 s 2;

(17) RCW 43.185A.120 (Affordable housing and community facilities rapid response loan program) and 2008 c 112 s 2; and

(18) RCW 43.185A.900 (Short title) and 1991 c 356 s 9."

Correct the title.

Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; Sandlin, Assistant Ranking Minority Member; Alvarado; Bateman; Cheney; Christian; Couture; Dye; Eslick; Farivar; Fosse; Kloba; Leavitt; Maycumber; McClintock; Morgan; Mosbrucker; Orwall; Peterson; Reed; Rule; Shavers; Stearns and Waters.

Referred to Committee on Rules for second reading

March 31, 2023

SB 5324

Prime Sponsor, Senator Conway: Concerning the defense community compatibility account. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.330.515 and 2019 c 404 s 1 are each amended to read as follows:

(1) The defense community compatibility account is created in the state treasury. Revenues to the account consist of appropriations by the legislature, private contributions, and all other sources deposited in the account.

(2)(a) Expenditures from the account may only be used for grants to local governments, federally recognized Indian tribes, or entities who have entered into an agreement with a military installation in the state under the United States department of defense readiness and environmental protection integration program for purposes of the programs established in subsection (3) of this section, including administrative expenses. (~~Priority must be given for grant applications accompanied by express support from nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners.~~) Only the director or the director's designee(✓) may authorize expenditures. In order for the director or the director's designee to authorize an expenditure for the purpose identified in subsection (3) of this section, both (~~federal~~) nonstate and applicant funds must be committed to the same purposes or project as the state expenditure.

(b) An applicant must submit an application to the department in order to be eligible for funding under this subsection, and the department may not expend money on a project for which an applicant has not applied to the department to carry out the project.

(3)(a) The department may expend moneys from the account to provide state funds for capital projects identified by applicants to address incompatible development connected to Washington state military installations. For purposes of this section, "incompatible development" includes land development and military operations that impact the economy, environment, or quality of life opportunities for local communities.

(b) The department must evaluate and rank applications using objective criteria such as a community cost-benefit analysis, must consider recommendations from a citizens advisory commission comprised of representatives of community stakeholders impacted by military installations or their operations, must hold public hearings at least ninety days prior to any funding decision, and may consider the degree to which each project is compatible with the criteria established in the United States department of defense's readiness and environmental protection integration program. When ranking applications, the department must give priority to grant applications:

(i) That have secured federal or other nonstate funding for the project;

(ii) That leverage a higher proportion of federal or other nonstate funding;

(iii) In which the federal grant requires state match in a timely manner; or

(iv) Accompanied by express support from nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners.

(c) Eligible projects may include:

(i) Acquisition of real property or real property interests to eliminate an existing incompatible use;

(ii) Projects to jointly assist in the recovery or protection of endangered species dependent on military installation property for habitat;

(iii) Projects ~~((or programs))~~ to increase the availability of housing affordable to enlisted military personnel and nonmilitary residents in the local community;

(iv) Projects to retrofit existing uses to increase their compatibility with existing or future military operations;

(v) Projects to enable local communities heavily dependent on a nearby military installation to diversify the local economy so as to reduce the economic dependence on the military base;

(vi) Projects that aid communities to replace jobs lost in the event of a reduction of the military presence; and

(vii) Projects that improve or enhance aspects of the local economy, environment, or quality of life impacted by the presence of military activities.

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

Sec. 2. RCW 43.330.520 and 2021 c 332 s 7039 are each amended to read as follows:

(1) The department must produce a biennial report identifying a list of projects to address incompatible developments near military installations.

(a) The list must include a description of each project, the estimated cost of the project, the amount of recommended state funding, and the amount of any federal or local funds documented to be available to be used for the project.

(b) Projects on the list must be prioritized with consideration given to:

(i) The recommendations of the recent United States department of defense base realignment and closure (BRAC) processes, joint land use studies, or other federally initiated land use processes; and

(ii) Whether a branch of the United States armed forces has identified the project as increasing the viability of military installations for current or future missions.

(c) The department may consult with the commanders of United States military installations in Washington to understand impacts and identify the viability of community identified projects to reduce incompatibility.

(2) The department must submit the report to appropriate committees of the house of representatives and the senate, including the joint committee on veterans' and military affairs and the house of representatives capital budget committee, by ~~((January 1, 2020))~~ November 1, 2024, and every two years thereafter.

~~((3) For the 2021-2023 fiscal biennium, the department shall develop the report in subsection (2) of this section by November 1, 2022, rather than by January 1, 2022-))"~~

Correct the title.

Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; Sandlin, Assistant Ranking Minority Member; Alvarado; Bateman; Cheney; Christian; Couture; Dye; Eslick; Farivar; Fosse; Kloba; Leavitt; Maycumber; McClintock; Morgan; Mosbrucker; Orwall; Peterson; Reed; Rule; Shavers; Stearns and Waters.

Referred to Committee on Rules for second reading

March 30, 2023

SSB 5396

Prime Sponsor, Health & Long Term Care:
Concerning cost sharing for diagnostic and supplemental breast examinations. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) In 1989 the legislature enacted Substitute House Bill No. 1074 requiring disability insurers, group disability insurers, health care service contractors, health maintenance organizations, and plans offered to public employees that provide benefits for hospital or medical care to provide benefits for screening and diagnostic mammography services.

(2) In 2010 the United States congress enacted the patient protection and affordable care act, which required coverage of certain preventative care services including screening mammograms with no cost sharing.

(3) In 2013 the Washington state office of the insurance commissioner adopted rules establishing the essential health benefits

benchmark plan, which listed diagnostic and screening mammogram services as state benefit requirements under preventative and wellness services.

(4) In 2018 the legislature enacted Senate Bill No. 5912 which directed the office of the insurance commissioner to clarify that the existing mandates for mammography included coverage for tomosynthesis, also known as three-dimensional mammography, under the same terms and conditions allowed for mammography.

(5) The legislature intends to establish that the requirements for coverage of mammography services predated the affordable care act and are already included in the state's essential health benefits benchmark plan. Furthermore, the legislature intends to prohibit cost sharing for certain types of breast examinations.

NEW SECTION. Sec. 2. A new section is added to chapter 48.43 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, for nongrandfathered health plans issued or renewed on or after January 1, 2024, that include coverage of supplemental breast examinations and diagnostic breast examinations, health carriers may not impose cost sharing for such examinations.

(2) For a health plan that provides coverage of supplemental breast examinations and diagnostic breast examinations and is offered as a qualifying health plan for a health savings account, the health carrier shall establish the plan's cost sharing for the coverage of the services described in this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions from their health savings account under internal revenue service laws and regulations.

(3) For purposes of this section:

(a) "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast, including an examination using diagnostic mammography, digital breast tomosynthesis, also called three dimensional mammography, breast magnetic resonance imaging, or breast ultrasound, that is used to evaluate an abnormality:

(i) Seen or suspected from a screening examination for breast cancer; or

(ii) Detected by another means of examination.

(b) "Supplemental breast examination" means a medically necessary and appropriate examination of the breast, including an examination using breast magnetic resonance imaging or breast ultrasound, that is: (i) Used to screen for breast cancer when there is no abnormality seen or suspected; and

(ii) Based on personal or family medical history, or additional factors that may increase the individual's risk of breast cancer.

Sec. 3. RCW 48.20.393 and 1994 sp.s. c 9 s 728 are each amended to read as follows:

Each disability insurance policy issued or renewed after January 1, 1990, that

provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard policy provisions, other than the cost-sharing prohibition provided in section 2 of this act, that are applicable to other benefits ((such as deductible or copayment provisions)). This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

Sec. 4. RCW 48.21.225 and 1994 sp.s. c 9 s 731 are each amended to read as follows:

Each group disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard policy provisions, other than the cost-sharing prohibition provided in section 2 of this act, that are applicable to other benefits ((such as deductible or copayment provisions)). This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

Sec. 5. RCW 48.44.325 and 1994 sp.s. c 9 s 734 are each amended to read as follows:

Each health care service contract issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard contract provisions, other than the cost-sharing prohibition provided in section 2 of this act, that are applicable to other benefits ((such as deductible or copayment provisions)). This section does not limit

the authority of a contractor to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

Sec. 6. RCW 48.46.275 and 1994 sp.s. c 9 s 735 are each amended to read as follows:

Each health maintenance agreement issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

All services must be provided by the health maintenance organization or rendered upon referral by the health maintenance organization. This section shall not be construed to prevent the application of standard agreement provisions, other than the cost-sharing prohibition provided in section 2 of this act, that are applicable to other benefits ((such as deductible or copayment provisions)). This section does not limit the authority of a health maintenance organization to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chambers, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representative Schmick.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; and Sandlin.

Referred to Committee on Rules for second reading

March 31, 2023

ESSB 5466 Prime Sponsor, Transportation: Promoting transit-oriented development. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass as amended by Committee on Housing. Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Alvarado; Bateman; Farivar; Fosse; Kloba; Leavitt; Morgan; Orwall; Peterson; Reed; Rule; Shavers and Stearns.

MINORITY recommendation: Do not pass. Signed by Representatives Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; Sandlin, Assistant

Ranking Minority Member; Cheney; Christian; Couture; Dye; Eslick; Maycumber; McClintock; Mosbrucker; and Waters.

Referred to Committee on Rules for second reading

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

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

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

MESSAGE FROM THE SENATE

Tuesday, April 4, 2023

Mme. Speaker:

The President has signed:

HOUSE BILL NO. 1004
HOUSE BILL NO. 1017
SUBSTITUTE HOUSE BILL NO. 1077
SUBSTITUTE HOUSE BILL NO. 1088
SUBSTITUTE HOUSE BILL NO. 1165
ENGROSSED HOUSE BILL NO. 1209
HOUSE BILL NO. 1265
HOUSE BILL NO. 1287
HOUSE BILL NO. 1290
ENGROSSED HOUSE BILL NO. 1336
SUBSTITUTE HOUSE BILL NO. 1352
HOUSE BILL NO. 1419
HOUSE BILL NO. 1420
HOUSE BILL NO. 1481
HOUSE BILL NO. 1514
HOUSE BILL NO. 1544
SUBSTITUTE HOUSE BILL NO. 1572
SUBSTITUTE HOUSE BILL NO. 1620
HOUSE BILL NO. 1645
HOUSE BILL NO. 1656
HOUSE BILL NO. 1657

and the same are herewith transmitted.

Colleen Rust, Deputy Secretary

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

FIRST SUPPLEMENTAL REPORT OF STANDING COMMITTEES

April 4, 2023

HB 1846

Prime Sponsor, Representative Fey:
Addressing vessel procurement at the
Washington state ferries. Reported by
Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; Mena; Orcutt; Ramel; Ramos; Schmidt; Taylor; Volz; Walsh and Wylie.

Referred to Committee on Rules for second reading

April 4, 2023

HB 1851 Prime Sponsor, Representative Callan: Implementing the first approach skills training program. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

HB 1853 Prime Sponsor, Representative Fey: Making certain corrective changes resulting from the enactment of chapter 182, Laws of 2022 (transportation resources). Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Berry; Bronoske; Chapman; Cortes; Doglio; Duerr; Entenman; Hackney; Mena; Ramel; Ramos; Taylor and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Hutchins, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Goehner; Griffey; Klicker; Orcutt; Schmidt; Volz; and Walsh.

MINORITY recommendation: Without recommendation. Signed by Representatives Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; and Dent.

Referred to Committee on Rules for second reading

April 4, 2023

ESB 5015 Prime Sponsor, Senator Fortunato: Reestablishing the productivity board. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5048 Prime Sponsor, Ways & Means: Eliminating college in the high school fees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Postsecondary Education & Workforce.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28B.10 RCW to read as follows:

(1) Beginning on September 1, 2023, institutions of higher education must provide enrollment and registration in college in the high school courses in which a student is eligible to receive college credit available at no cost for students in the ninth, 10th, 11th, or 12th grade at public high schools.

(2) Beginning with the 2023-2025 omnibus operating appropriation act, the legislature must pass an omnibus operating appropriations act that appropriates to the state board of community and technical colleges and each of the public four-year institutions of higher education state funding for college in high school courses administered at public secondary schools.

(3) State appropriations for the college in the high school program to the institutions of higher education shall be calculated as follows: The total college in the high school courses administered in the prior academic year, funded at \$300 per student up to a maximum rate of:

(a) \$6,000 per college in the high school course administered by a state university as defined in RCW 28B.10.016;

(b) \$5,000 per college in the high school course administered by a regional university or the state college; or

(c) \$3,500 per college in the high school course administered by a community or technical college.

(4) Beginning with fiscal year 2025 the rate per college in the high school course administered must be adjusted annually for inflation as measured by the consumer price index.

(5) State appropriations must be based on the total number of college in the high school courses administered by an institution of higher education for the academic year immediately prior to the current fiscal year. The state appropriation is based on course administration data submitted annually by October 15th to the office of financial management and legislative fiscal staff.

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

(a) "Community or technical college" has the same meaning as provided for under RCW 28B.50.030.

(b) "Course" means a class taught under a contract between an institution of higher education and a single high school teacher on an articulated subject in which the student is eligible to receive college credit.

(c) "High school" means a public school, as defined in RCW 28A.150.010, that serves students in any of grades nine through 12.

(d) "Institutions of higher education" has the same meaning as provided for under RCW 28B.10.016.

(e) "College in the high school" is the program created under RCW 28A.600.287.

Sec. 2. RCW 28A.600.287 and 2021 c 71 s 1 are each amended to read as follows:

(1) College in the high school is a dual credit program located on a high school campus or in a high school environment in which a high school student is able to earn both high school and college credit by completing college level courses with a passing grade. A college in the high school program must meet the accreditation requirements in RCW 28B.10.035 and the requirements in this section.

(2) A college in the high school program may include both academic and career and technical education.

(3) Ninth, 10th, 11th, and 12th grade students, and students who have not yet received a high school diploma or its equivalent and are eligible to be in the ninth, 10th, 11th, or 12th grades, may participate in a college in the high school program.

(4) A college in the high school program must be governed by a local contract between an institution of higher education and a school district, charter school, or state-tribal compact school, in compliance with the rules adopted by the superintendent of public instruction under this section. The local contract must include the qualifications for students to enroll in a program course.

(5) ~~((a))~~ An institution of higher education may charge tuition fees per credit to each student enrolled in a program course as established in this subsection (5).

(b) (i) ~~The maximum per college credit tuition fee for a program course is \$65 per college credit adjusted for inflation using the implicit price deflator for that fiscal year, using fiscal year 2021 as the base, as compiled by the bureau of labor statistics, United States department of labor for the state of Washington.~~

(ii) ~~Annually by July 1st, the office of the superintendent of public instruction must calculate the maximum per college credit tuition fee and post the fee on its website.~~

(c) ~~The funds received by an institution of higher education under this subsection (5) are not tuition or operating fees and may be retained by the institution of higher education.~~

(6) ~~Enrollment information on persons registered under this section must be maintained by the institution of higher education separately from other enrollment information and may not be included in official enrollment reports, nor may such persons be considered in any enrollment statistics that would affect higher education budgetary determinations.~~

(7) ~~Each school district, charter school, and state-tribal compact school must award high school credit to a student enrolled in a program course if the student successfully completes the course. If no comparable course is offered by the school district, charter school, or state-tribal compact school, the chief administrator shall determine how many credits to award for the successful completion of the program course. The determination must be made in writing before the student enrolls in the program course. The awarded credit must be applied toward graduation requirements and subject area requirements. Evidence of~~

successful completion of each program course must be included in the student's high school records and transcript.

~~((8))~~ (7) Each institution of higher education (must award) offering college in the high school must:

(a) Award college credit to a student enrolled in a program course ((if the student successfully completes the course. The awarded college credit must be applied toward general education requirements or degree requirements at the institution of higher education. Evidence of successful completion of each program course must be included in the student's college transcript)) and provide evidence of completion of each program course on the student's college transcript;

(b) Grant undergraduate college credit as appropriate and applicable to the student's degree requirements; and

(c) Provide course equivalencies for college in the high school courses and policy for awarding credit on the institution's website.

~~((9))~~ (8) (a) A high school that offers a college in the high school program must provide general information about the program to all students in grades eight through 12 and to the parents and guardians of those students.

(b) A high school that offers a college in the high school program must include the following information about program courses in a notification to parents and guardians of students in grades eight through 12, including by email and in beginning of the year packets, and in the high school catalogue or equivalent:

(i) There is no fee for students to enroll in a program course ((to earn only high school credit. Fees apply for students who choose to enroll in a program course to earn both high school and college credit;

(ii) A description and breakdown of the fees charged to students to earn college credit;

(iii) A description of fee payment and financial assistance options available to students; and

(iv)) for high school credit or for students to enroll in a program course for both high school and college credit; and

(ii) A notification that ((paying fee)) enrolling in a program course for college credit automatically starts an official college transcript with the institution of higher education offering the program course regardless of student performance in the program course, and that college credit earned upon successful completion of a program course may count only as elective credit if transferred to another institution of higher education.

~~((10))~~ (9) Full-time and part-time faculty at institutions of higher education, including adjunct faculty, are eligible to teach program courses.

~~((11))~~ Students enrolled in a program course may pay college in the high school fees with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.

~~((12))~~ (10) The superintendent of public instruction shall adopt rules for the

administration of this section. The rules must be jointly developed by the superintendent of public instruction, the state board for community and technical colleges, the student achievement council, and the public baccalaureate institutions. The association of Washington school principals must be consulted during the rules development. The rules must outline quality and eligibility standards that are informed by nationally recognized standards or models. In addition, the rules must encourage the maximum use of the program and may not narrow or limit the enrollment options.

(13) The definitions in this subsection apply throughout this section ~~((-))~~, unless the context clearly requires otherwise:

(a) "Charter school" means a school established under chapter 28A.710 RCW.

(b) "High school" means a public school, as defined in RCW 28A.150.010, that serves students in any of grades nine through 12.

(c) "Institution of higher education" has the same meaning as in RCW 28B.10.016, and also means a public tribal college located in Washington and accredited by the northwest commission on colleges and universities or another accrediting association recognized by the United States department of education.

(d) "Program course" means a college course offered in a high school under a college in the high school program.

(e) "State-tribal compact school" means a school established under chapter 28A.715 RCW.

Sec. 3. RCW 28B.76.730 and 2021 c 71 s 6 are each amended to read as follows:

(1) The legislature recognizes that dual credit programs reduce both the cost and time of attendance to obtain a postsecondary degree. The legislature intends to reduce barriers and increase access to postsecondary educational opportunities for low-income students by removing the financial barriers for dual enrollment programs for students.

(2) The office, in consultation with the institutions of higher education and the office of the superintendent of public instruction, shall create the Washington dual enrollment scholarship pilot program. The office shall administer the Washington dual enrollment scholarship pilot program and may adopt rules as necessary.

(3) Eligible students are those who meet the following requirements:

(a) Qualify for the free or reduced-price lunch program;

(b) Are enrolled in one or more dual credit programs, as defined in RCW 28B.15.821, such as ~~((college in the high school and))~~ running start; and

(c) Have at least a 2.0 grade point average.

(4) Subject to availability of amounts appropriated for this specific purpose, beginning with the 2019-20 academic year, the office may award scholarships to eligible students. The scholarship award must be as follows ~~((-))~~

~~((-))~~ for eligible students enrolled in running start:

~~((i))~~ (a) Mandatory fees, as defined in RCW 28A.600.310(2), prorated based on credit load;

~~((ii))~~ (b) Course fees or laboratory fees as determined appropriate by college or university policies to pay for specified course related costs;

~~((iii))~~ (c) A textbook voucher to be used at the institution of higher education's bookstore where the student is enrolled. For every credit per quarter the student is enrolled, the student shall receive a textbook voucher for ten dollars, up to a maximum of fifteen credits per quarter, or the equivalent, per year; and

~~((iv))~~ (d) Apprenticeship materials as determined appropriate by the college or university to pay for specific course-related material costs, which may include occupation-specific tools, work clothes, rain gear, or boots.

~~((b) An eligible student enrolled in a college in the high school program may receive a scholarship for tuition fees as set forth under RCW 28A.600.287-))~~

(5) The Washington dual enrollment scholarship pilot program must apply after the fee waivers for low-income students under RCW 28A.600.310 ~~((and subsidies under RCW 28A.600.290))~~ are provided for.

NEW SECTION. Sec. 4. RCW 28A.600.290 (College in the high school program—Funding) and 2021 c 71 s 2, 2015 c 202 s 3, 2012 c 229 s 801, & 2009 c 450 s 3 are each repealed.

NEW SECTION. Sec. 5. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Corry, Assistant Ranking Minority Member; Chandler; Couture; Dye; Harris; and Schmick.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; and Connors.

Referred to Committee on Rules for second reading

April 1, 2023

SB 5066

Prime Sponsor, Senator Short: Concerning health care benefit managers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff;

Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Steele and Tharinger.

ownership. Reported by Committee on Appropriations

Referred to Committee on Rules for second reading

March 31, 2023

SSB 5078 Prime Sponsor, Ways & Means: Protecting public safety by establishing duties of firearm industry members. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Civil Rights & Judiciary. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Harris; Rude; Sandlin; Schmick; and Steele.

Referred to Committee on Rules for second reading

April 4, 2023

E2SSB 5080 Prime Sponsor, Ways & Means: Expanding and improving the social equity in cannabis program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Regulated Substances & Gaming. Signed by Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Rude; Sandlin; Schmick; and Steele.

MINORITY recommendation: Without recommendation. Signed by Representatives Bergquist, Vice Chair; and Harris.

Referred to Committee on Rules for second reading

April 4, 2023

SB 5084 Prime Sponsor, Senator Braun: Creating a separate fund for the purposes of self-insured pensions and assessments. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2023

SSB 5096 Prime Sponsor, Business, Financial Services, Gaming & Trade: Concerning employee

MAJORITY recommendation: Do pass as amended by Committee on Innovation, Community & Economic Development, & Veterans. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5103 Prime Sponsor, Ways & Means: Concerning payment to acute care hospitals for difficult to discharge medicad patients. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.09.520 and 2022 c 255 s 4 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services subject to rules adopted by the authority or department: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and X-ray services; (d) nursing facility services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary or director; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical and occupational therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a child by a school district in a manner consistent with the requirements of this chapter. For the purposes of this section, neither the authority nor the department may cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal

care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care for clients requiring health-related consultation for assessment and service planning may be reviewed by a nurse.

(c) The department shall determine by rule which clients have a health-related assessment or service planning need requiring registered nurse consultation or review. This definition may include clients that meet indicators or protocols for review, consultation, or visit.

(3) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(4) Effective July 1, 1989, the authority shall offer hospice services in accordance with available funds.

(5) For Title XIX personal care services administered by the department, the department shall contract with area agencies on aging or may contract with a federally recognized Indian tribe under RCW 74.39A.090(3):

(a) To provide case management services to individuals receiving Title XIX personal care services in their own home; and

(b) To reassess and reauthorize Title XIX personal care services or other home and community services as defined in RCW 74.39A.009 in home or in other settings for individuals consistent with the intent of this section:

(i) Who have been initially authorized by the department to receive Title XIX personal care services or other home and community services as defined in RCW 74.39A.009; and

(ii) Who, at the time of reassessment and reauthorization, are receiving such services in their own home.

(6) In the event that an area agency on aging or federally recognized Indian tribe is unwilling to enter into or satisfactorily fulfill a contract or an individual consumer's need for case management services will be met through an alternative delivery system, the department is authorized to:

(a) Obtain the services through competitive bid; and

(b) Provide the services directly until a qualified contractor can be found.

(7) Subject to the availability of amounts appropriated for this specific purpose, the authority may offer medicare

part D prescription drug copayment coverage to full benefit dual eligible beneficiaries.

(8) Effective January 1, 2016, the authority shall require universal screening and provider payment for autism and developmental delays as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on August 27, 2015. This requirement is subject to the availability of funds.

(9) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for annual depression screening for youth ages twelve through eighteen as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on January 1, 2017. Providers may include, but are not limited to, primary care providers, public health nurses, and other providers in a clinical setting. This requirement is subject to the availability of funds appropriated for this specific purpose.

(10) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for maternal depression screening for mothers of children ages birth to six months. This requirement is subject to the availability of funds appropriated for this specific purpose.

(11) Subject to the availability of amounts appropriated for this specific purpose, the authority shall:

(a) Allow otherwise eligible reimbursement for the following related to mental health assessment and diagnosis of children from birth through five years of age:

(i) Up to five sessions for purposes of intake and assessment, if necessary;

(ii) Assessments in home or community settings, including reimbursement for provider travel; and

(b) Require providers to use the current version of the DC:0-5 diagnostic classification system for mental health assessment and diagnosis of children from birth through five years of age.

(12)(a) The authority shall require or provide payment to the hospital for any day of a hospital stay in which an adult or child patient enrolled in medical assistance, including home and community services or with a medicaid managed care organization, under this chapter:

(i) Does not meet the criteria for acute inpatient level of care as defined by the authority;

(ii) Meets the criteria for discharge, as defined by the authority or department, to any appropriate placement including, but not limited to:

(A) A nursing home licensed under chapter 18.51 RCW;

(B) An assisted living facility licensed under chapter 18.20 RCW;

(C) An adult family home licensed under chapter 70.128 RCW; or

(D) A setting in which residential services are provided or funded by the developmental disabilities administration of

the department, including supported living as defined in RCW 71A.10.020; and

(iii) Is not discharged from the hospital because placement in the appropriate location described in (a)(ii) of this subsection is not available.

(b) The authority shall adopt rules identifying which services are included in the payment described in (a) of this subsection and which services may be billed separately, including specific revenue codes or services required on the inpatient claim.

(c) Allowable medically necessary services performed during a stay described in (a) of this subsection shall be billed by and paid to the hospital separately. Such services may include but are not limited to hemodialysis, laboratory charges, and x-rays.

(d) Pharmacy services and pharmaceuticals shall be billed by and paid to the hospital separately.

(e) The requirements of this subsection do not alter requirements for billing or payment for inpatient care.

(f) The authority shall adopt, amend, or rescind such administrative rules as necessary to facilitate calculation and payment of the amounts described in this subsection, including for clients of medicaid managed care organizations.

(g) The authority shall adopt rules requiring medicaid managed care organizations to establish specific and uniform administrative and review processes for payment under this subsection.

(h) For patients meeting the criteria in (a)(ii)(A) of this subsection, hospitals must utilize swing beds or skilled nursing beds to the extent the services are available within their facility and the associated reimbursement methodology prior to the billing under the methodology in (a) of this subsection, if the hospital determines that such swing bed or skilled nursing bed placement is appropriate for the patient's care needs, the patient is appropriate for the existing patient mix, and appropriate staffing is available."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2023

SSB 5114 Prime Sponsor, Human Services: Supporting adults with lived experience of sex trafficking. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon;

Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2023

2SSB 5120 Prime Sponsor, Ways & Means: Establishing crisis relief centers in Washington state. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2023

ESSB 5124 Prime Sponsor, Human Services: Supporting guardianships and voluntary placement with nonrelative kin. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5128 Prime Sponsor, Ways & Means: Concerning jury diversity. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Civil Rights & Judiciary. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers, Assistant Ranking Minority Member; Dye; Harris; Schmick; and Steele.

Referred to Committee on Rules for second reading

April 4, 2023

ESB 5130 Prime Sponsor, Senator Frame: Concerning assisted outpatient treatment. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Civil Rights & Judiciary.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.05.148 and 2022 c 210 s 3 are each amended to read as follows:

(1) A person is in need of assisted outpatient treatment if the court finds by clear, cogent, and convincing evidence pursuant to a petition filed under this section that:

(a) The person has a behavioral health disorder;

(b) Based on a clinical determination and in view of the person's treatment history and current behavior, at least one of the following is true:

(i) The person is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating; or

(ii) The person is in need of assisted outpatient treatment in order to prevent a relapse or deterioration that would be likely to result in grave disability or a likelihood of serious harm to the person or to others;

(c) The person has a history of lack of compliance with treatment for his or her behavioral health disorder that has:

(i) At least twice within the 36 months prior to the filing of the petition been a significant factor in necessitating hospitalization of the person, or the person's receipt of services in a forensic or other mental health unit of a state correctional facility or local correctional facility, provided that the 36-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the 36-month period;

(ii) At least twice within the 36 months prior to the filing of the petition been a significant factor in necessitating emergency medical care or hospitalization for behavioral health-related medical conditions including overdose, infected abscesses, sepsis, endocarditis, or other maladies, or a significant factor in behavior which resulted in the person's incarceration in a state or local correctional facility; or

(iii) Resulted in one or more violent acts, threats, or attempts to cause serious physical harm to the person or another within the 48 months prior to the filing of the petition, provided that the 48-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred during the 48-month period;

(d) Participation in an assisted outpatient treatment program would be the least restrictive alternative necessary to ensure the person's recovery and stability; and

(e) The person will benefit from assisted outpatient treatment.

(2) The following individuals may directly file a petition for less restrictive alternative treatment on the basis that a person is in need of assisted outpatient treatment:

(a) The director of a hospital where the person is hospitalized or the director's designee;

(b) The director of a behavioral health service provider providing behavioral health care or residential services to the person or the director's designee;

(c) The person's treating mental health professional or substance use disorder professional or one who has evaluated the person;

(d) A designated crisis responder;

(e) A release planner from a corrections facility; or

(f) An emergency room physician.

(3) A court order for less restrictive alternative treatment on the basis that the person is in need of assisted outpatient treatment may be effective for up to 18 months, unless the person is currently detained for inpatient treatment for 14 days or more under RCW 71.05.240 or 71.05.320, in which case the order may be effective for 90 days if the person is currently detained for 14 days of treatment, or 180 days if the person is currently detained for 90 or 180 days of treatment. The petitioner must personally interview the person, unless the person refuses an interview, to determine whether the person will voluntarily receive appropriate treatment.

(4) The petitioner must allege specific facts based on personal observation, evaluation, or investigation, and must consider the reliability or credibility of any person providing information material to the petition.

(5) The petition must include:

(a) A statement of the circumstances under which the person's condition was made known and the basis for the opinion, from personal observation or investigation, that the person is in need of assisted outpatient treatment. The petitioner must state which specific facts come from personal observation and specify what other sources of information the petitioner has relied upon to form this belief;

(b) A declaration from a physician, physician assistant, advanced registered nurse practitioner, ~~((or))~~ the person's treating mental health professional or substance use disorder professional, or in the case of a person enrolled in treatment in a behavioral health agency, the person's behavioral health case manager, who has examined the person no more than 10 days prior to the submission of the petition and who is willing to testify in support of the petition, or who alternatively has made appropriate attempts to examine the person within the same period but has not been successful in obtaining the person's cooperation, and who is willing to testify to the reasons they believe that the person meets the criteria for assisted outpatient treatment ~~((If the declaration is provided by the person's treating mental health professional or substance use disorder professional, it must be cosigned by a supervising physician, physician assistant, or advanced registered nurse practitioner who certifies that they have reviewed the declaration))~~;

(c) The declarations of additional witnesses, if any, supporting the petition for assisted outpatient treatment;

(d) The name of an agency, provider, or facility that agrees to provide less restrictive alternative treatment if the petition is granted by the court; and

(e) If the person is detained in a state hospital, inpatient treatment facility, jail, or correctional facility at the time the petition is filed, the anticipated release date of the person and any other details needed to facilitate successful reentry and transition into the community.

(6)(a) Upon receipt of a petition meeting all requirements of this section, the court shall fix a date for a hearing:

(i) No sooner than three days or later than seven days after the date of service or as stipulated by the parties or, upon a showing of good cause, no later than 30 days after the date of service; or

(ii) If the respondent is hospitalized at the time of filing of the petition, before discharge of the respondent and in sufficient time to arrange for a continuous transition from inpatient treatment to assisted outpatient treatment.

(b) A copy of the petition and notice of hearing shall be served, in the same manner as a summons, on the petitioner, the respondent, the qualified professional whose affidavit accompanied the petition, a current provider, if any, and a surrogate decision maker or agent under chapter 71.32 RCW, if any.

(c) If the respondent has a surrogate decision maker or agent under chapter 71.32 RCW who wishes to provide testimony at the hearing, the court shall afford the surrogate decision maker or agent an opportunity to testify.

(d) The respondent shall be represented by counsel at all stages of the proceedings.

(e) If the respondent fails to appear at the hearing after notice, the court may conduct the hearing in the respondent's absence; provided that the respondent's counsel is present.

(f) If the respondent has refused to be examined by the qualified professional whose affidavit accompanied the petition, the court may order a mental examination of the respondent. The examination of the respondent may be performed by the qualified professional whose affidavit accompanied the petition. If the examination is performed by another qualified professional, the examining qualified professional shall be authorized to consult with the qualified professional whose affidavit accompanied the petition.

(g) If the respondent has refused to be examined by a qualified professional and the court finds reasonable grounds to believe that the allegations of the petition are true, the court may issue a written order directing a peace officer who has completed crisis intervention training to detain and transport the respondent to a provider for examination by a qualified professional. A respondent detained pursuant to this subsection shall be detained no longer than necessary to complete the examination and in no event longer than 24 hours.

(7) If the petition involves a person whom the petitioner or behavioral health administrative services organization knows, or has reason to know, is an American Indian or Alaska Native who receives medical or behavioral health services from a tribe within this state, the behavioral health administrative services organization shall notify the tribe and Indian health care provider. Notification shall be made in person or by telephonic or electronic communication to the tribal contact listed in the authority's tribal crisis coordination plan as soon as possible.

(8) A petition for assisted outpatient treatment filed under this section shall be adjudicated under RCW 71.05.240.

(9) ~~((After January 1, 2023, a))~~ A petition for assisted outpatient treatment must be filed on forms developed by the administrative office of the courts.

Sec. 2. RCW 71.05.365 and 2022 c 210 s 19 are each amended to read as follows:

When a person has been involuntarily committed for treatment to a hospital for a period of 90 or 180 days, and the superintendent or professional person in charge of the hospital determines that the person no longer requires active psychiatric treatment at an inpatient level of care, the behavioral health administrative services organization, managed care organization, or agency providing oversight of long-term care or developmental disability services that is responsible for resource management services for the person must work with the hospital to develop an individualized discharge plan ~~((, including whether a petition should be filed for less restrictive alternative treatment on the basis that the person is in need of assisted outpatient treatment,))~~ and arrange for a transition to the community in accordance with the person's individualized discharge plan within 14 days of the determination.

Sec. 3. RCW 71.05.590 and 2022 c 210 s 23 are each amended to read as follows:

(1) ~~((Either an))~~ An agency or facility designated to monitor or provide less restrictive alternative treatment services under a ~~((less restrictive alternative))~~ court order or conditional release, or a designated crisis responder, may take action to enforce, modify, or revoke ~~((a))~~ the less restrictive alternative treatment order or conditional release ~~((order. The))~~ if the agency, facility, or designated crisis responder ~~((must determine))~~ determines that:

(a) The person is failing to adhere to the terms and conditions of the order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to

the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel or advise the person as to their rights and responsibilities under the court order, and to offer incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be directed to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the entity requesting the hearing and issue an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To detain the person for up to 12 hours for evaluation at an agency, facility providing services under the court order, triage facility, crisis stabilization unit, emergency department, evaluation and treatment facility, secure withdrawal management and stabilization facility with available space, or an approved substance use disorder treatment program with available space. The purpose of the evaluation is to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when, based on clinical judgment, temporary detention is appropriate. The agency, facility, or designated crisis responder may request assistance from a peace officer for the purposes of temporary detention under this subsection (2)(d). This subsection does not limit the ability or obligation of the agency, facility, or designated crisis responder to pursue revocation procedures under subsection (5) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (5) of this section.

(3) A court may supervise a person on an order for less restrictive alternative treatment or a conditional release. While the person is under the order, the court may:

(a) Require appearance in court for periodic reviews; and

(b) Modify the order after considering input from the agency or facility designated to provide or facilitate services. The court may not remand the person into inpatient

treatment except as provided under subsection (5) of this section, but may take actions under subsection (2)(a) through (d) of this section.

(4) The facility or agency designated to provide outpatient treatment shall notify the secretary of the department of social and health services or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(5)(a) A designated crisis responder or the secretary of the department of social and health services may, upon their own motion or upon request of the facility or agency designated to provide outpatient care, cause a person to be detained in an evaluation and treatment facility, available secure withdrawal management and stabilization facility with adequate space, or available approved substance use disorder treatment program with adequate space in or near the county in which he or she is receiving outpatient treatment for the purpose of a hearing for revocation of a less restrictive alternative treatment order or conditional release order under this chapter. The designated crisis responder or secretary of the department of social and health services shall file a petition for revocation within 24 hours and serve the person, their guardian, if any, and their attorney. A hearing for revocation of a less restrictive alternative treatment order or conditional release order may be scheduled without detention of the person.

(b) A person detained under this subsection (5) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the order for less restrictive alternative treatment or conditional release should be revoked, modified, or retained. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary of the department of social and health services may withdraw its petition for revocation at any time before the court hearing.

(c) A person detained under this subsection (5) has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the order or conditional release; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm;

and, if any of the above conditions apply, whether it is appropriate for the court to reinstate or modify the person's less restrictive alternative treatment order or conditional release (~~(order)~~) or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period must be for 14 days from the revocation hearing if the less restrictive alternative treatment order or conditional release (~~(order)~~) was based on a petition under RCW 71.05.148, 71.05.160, or 71.05.230. The person must return to less restrictive alternative treatment under the order at the end of the 14-day period unless a petition for further treatment is filed under RCW 71.05.320 or the person accepts voluntary treatment. If the court orders detention for inpatient treatment and the less restrictive alternative treatment order or conditional release (~~(order)~~) was based on a petition under RCW 71.05.290 or 71.05.320, the number of days remaining on the order must be converted to days of inpatient treatment. A court may not detain a person for inpatient treatment to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program under this subsection unless there is a facility or program available with adequate space for the person.

(6) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

Sec. 4. RCW 71.05.590 and 2022 c 210 s 24 are each amended to read as follows:

(1) (~~(Either an)~~) An agency or facility designated to monitor or provide less restrictive alternative treatment services under a (~~(less restrictive alternative)~~) court order or conditional release, or a designated crisis responder, may take action to enforce, modify, or revoke ((a)) the less restrictive alternative treatment order or conditional release (~~(order. The)~~) if the agency, facility, or designated crisis responder (~~(must determine)~~) determines that:

(a) The person is failing to adhere to the terms and conditions of the order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public

in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel or advise the person as to their rights and responsibilities under the court order, and to offer incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be directed to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist (~~(the)~~) the entity requesting the hearing and issue an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To detain the person for up to 12 hours for evaluation at an agency, facility providing services under the court order, triage facility, crisis stabilization unit, emergency department, evaluation and treatment facility, secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program. The purpose of the evaluation is to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when, based on clinical judgment, temporary detention is appropriate. The agency, facility, or designated crisis responder may request assistance from a peace officer for the purposes of temporary detention under this subsection (2)(d). This subsection does not limit the ability or obligation of the agency, facility, or designated crisis responder to pursue revocation procedures under subsection (5) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (5) of this section.

(3) A court may supervise a person on an order for less restrictive alternative treatment or a conditional release. While the person is under the order, the court may:

(a) Require appearance in court for periodic reviews; and

(b) Modify the order after considering input from the agency or facility designated to provide or facilitate services. The court may not remand the person into inpatient treatment except as provided under subsection (5) of this section, but may take

actions under subsection (2)(a) through (d) of this section.

(4) The facility or agency designated to provide outpatient treatment shall notify the secretary of the department of social and health services or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(5)(a) A designated crisis responder or the secretary of the department of social and health services may, upon their own motion or upon request of the facility or agency designated to provide outpatient care, cause a person to be detained in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program in or near the county in which he or she is receiving outpatient treatment for the purpose of a hearing for revocation of a less restrictive alternative treatment order or conditional release (~~order~~) under this chapter. The designated crisis responder or secretary of the department of social and health services shall file a petition for revocation within 24 hours and serve the person, their guardian, if any, and their attorney. A hearing for revocation of a less restrictive alternative treatment order or conditional release (~~order~~) may be scheduled without detention of the person.

(b) A person detained under this subsection (5) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the order for less restrictive alternative treatment or conditional release should be revoked, modified, or retained. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary of the department of social and health services may withdraw its petition for revocation at any time before the court hearing.

(c) A person detained under this subsection (5) has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the order or conditional release; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether it is appropriate for the court to reinstate or modify the person's less

restrictive alternative treatment order or conditional release (~~order~~) or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period must be for 14 days from the revocation hearing if the less restrictive alternative treatment order or conditional release (~~order~~) was based on a petition under RCW 71.05.148, 71.05.160, or 71.05.230. The person must return to less restrictive alternative treatment under the order at the end of the 14-day period unless a petition for further treatment is filed under RCW 71.05.320 or the person accepts voluntary treatment. If the court orders detention for inpatient treatment and the less restrictive alternative treatment order or conditional release (~~order~~) was based on a petition under RCW 71.05.290 or 71.05.320, the number of days remaining on the order must be converted to days of inpatient treatment.

(6) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

Sec. 5. RCW 71.34.020 and 2021 c 264 s 26 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a minor should be examined or treated as a patient in a hospital.

(2) "Adolescent" means a minor thirteen years of age or older.

(3) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(4) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to, atypical antipsychotic medications.

(5) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(6) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a minor patient.

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

(8) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(9) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder.

(10) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(11) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(12) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms.

(14) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(15) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, such as a residential treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization.

(16) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(17) "Department" means the department of social and health services.

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

(19) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter.

(20) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant

working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department.

(21) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(22) "Director" means the director of the authority.

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

(24) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(25) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(26) "Gravely disabled minor" means a minor who, as a result of a behavioral health disorder, (a) is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(27) "Habilitative services" means those services provided by program personnel to assist minors in acquiring and maintaining life skills and in raising their levels of physical, behavioral, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

(28) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.34.910.

(29) "History of one or more violent acts" refers to the period of time five years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term substance use disorder treatment facility, or in confinement as a result of a criminal conviction.

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which states:

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

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

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

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

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

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

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

(31) (a) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "inpatient treatment" has the meaning included in (a) of this subsection and any other residential treatment facility licensed under chapter 71.12 RCW.

(32) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter.

(34) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a).

(35) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130.

(36) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor as a program of individualized treatment in a less restrictive setting than inpatient treatment (~~that~~). This term includes the services described in RCW 71.34.755, including residential treatment, and treatment pursuant to an assisted outpatient treatment order under RCW 71.34.815.

(37) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(38) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a minor upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm

will be inflicted by a minor upon another individual, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a minor upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The minor has threatened the physical safety of another and has a history of one or more violent acts.

(39) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(40) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder.

(41) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a disability, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(42) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(43) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(44) "Minor" means any person under the age of eighteen years.

(45) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(46) (a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a

declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(47) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

(48) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW.

(49) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(50) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(51) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(52) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(53) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(54) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(55) "Release" means legal termination of the commitment under the provisions of this chapter.

(56) "Resource management services" has the meaning given in chapter 71.24 RCW.

(57) "Responsible other" means the minor, the minor's parent or estate, or any other

person legally responsible for support of the minor.

(58) "Secretary" means the secretary of the department or secretary's designee.

(59) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(60) "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.

(61) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(62) "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment.

(63) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(64) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW.

(65) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction

over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties.

(66) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, the department of health, the authority, behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, the department of health, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

(67) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility.

(68) "Video" means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology.

(69) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

(70) "In need of assisted outpatient treatment" refers to a minor who meets the criteria for assisted outpatient treatment established under RCW 71.34.815.

Sec. 6. RCW 71.34.020 and 2021 c 264 s 28 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a minor should be examined or treated as a patient in a hospital.

(2) "Adolescent" means a minor thirteen years of age or older.

(3) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or

discontinued, and impairment of health or disruption of social or economic functioning.

(4) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to, atypical antipsychotic medications.

(5) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(6) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a minor patient.

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

(8) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(9) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder.

(10) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(11) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(12) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms.

(14) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(15) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, such as a residential treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals

experiencing an acute crisis without the use of long-term hospitalization.

(16) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(17) "Department" means the department of social and health services.

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

(19) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter.

(20) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department.

(21) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(22) "Director" means the director of the authority.

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

(24) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(25) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(26) "Gravely disabled minor" means a minor who, as a result of a behavioral health disorder, (a) is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or (b) manifests severe deterioration from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(27) "Habilitative services" means those services provided by program personnel to assist minors in acquiring and maintaining life skills and in raising their levels of physical, behavioral, social, and vocational

functioning. Habilitative services include education, training for employment, and therapy.

(28) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.34.910.

(29) "History of one or more violent acts" refers to the period of time five years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term substance use disorder treatment facility, or in confinement as a result of a criminal conviction.

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which states:

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

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

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

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

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

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

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

(31) (a) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "inpatient treatment" has the meaning included in (a) of this subsection and any other residential treatment facility licensed under chapter 71.12 RCW.

(32) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter.

(34) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a).

(35) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130.

(36) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor as a program of individualized treatment in a less restrictive setting than inpatient treatment ~~((that))~~. This term includes the services described in RCW 71.34.755, including residential treatment, and treatment pursuant to an assisted outpatient treatment order under RCW 71.34.815.

(37) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(38) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a minor upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a minor upon another individual, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by a minor upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The minor has threatened the physical safety of another and has a history of one or more violent acts.

(39) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(40) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder.

(41) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a disability, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(42) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(43) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(44) "Minor" means any person under the age of eighteen years.

(45) "Outpatient treatment" means any of the nonresidential services mandated under

chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(46)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(47) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

(48) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW.

(49) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(50) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(51) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(52) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(53) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(54) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(55) "Release" means legal termination of the commitment under the provisions of this chapter.

(56) "Resource management services" has the meaning given in chapter 71.24 RCW.

(57) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(58) "Secretary" means the secretary of the department or secretary's designee.

(59) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(60) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior.

(61) "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.

(62) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program

offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(63) "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment.

(64) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(65) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW.

(66) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties.

(67) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, the department of health, the authority, behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, the department of health, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

(68) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility.

(69) "Video" means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology.

(70) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

(71) "In need of assisted outpatient treatment" refers to a minor who meets the criteria for assisted outpatient treatment established under RCW 71.34.815.

Sec. 7. RCW 71.34.740 and 2020 c 302 s 92 are each amended to read as follows:

(1) A ~~((commitment))~~ hearing shall be held within ~~((one hundred twenty))~~ 120 hours of the minor's admission, excluding Saturday, Sunday, and holidays, or if the hearing is held on a petition filed under RCW 71.34.815, the hearing shall be held at a time scheduled under that section, unless a continuance is ordered under RCW 71.34.735.

(2) The ~~((commitment))~~ hearing shall be conducted at the superior court or an appropriate place at the facility in which the minor is being detained.

(3) At the ~~((commitment))~~ hearing, the evidence in support of the petition shall be presented by the county prosecutor.

(4) The minor shall be present at the ~~((commitment))~~ hearing unless the minor, with the assistance of the minor's attorney, waives the right to be present at the hearing.

(5) If the parents are opposed to the petition, they may be represented at the hearing and shall be entitled to court-appointed counsel if they are indigent.

(6) At the ~~((commitment))~~ hearing, the minor shall have the following rights:

(a) To be represented by an attorney;

(b) To present evidence on his or her own behalf;

(c) To question persons testifying in support of the petition.

(7) If the ~~((hearing))~~ petition is ~~((for commitment))~~ for mental health treatment, the court at the time of the ~~((commitment))~~ hearing and before an order ~~((of commitment))~~ making findings is entered shall inform the minor both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.34.730 will result in the loss of his or her firearm rights if the minor is subsequently ~~((detained for))~~ ordered to receive involuntary treatment under this section.

(8) If the minor has received medication within ~~((twenty-four))~~ 24 hours of the hearing, the court shall be informed of that fact and of the probable effects of the medication.

(9) For a ~~((fourteen-day))~~ 14-day commitment, the court must find by a preponderance of the evidence that:

(a) The minor has a behavioral health disorder and presents a likelihood of serious harm or is gravely disabled;

(b) The minor is in need of evaluation and treatment of the type provided by the inpatient evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program to which continued inpatient care is sought or is in need of less restrictive alternative

treatment found to be in the best interests of the minor or others;

(c) The minor is unwilling or unable in good faith to consent to voluntary treatment; and

(d) If commitment is for a substance use disorder, there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program with adequate space for the minor.

(10) ~~(a)~~ If the court finds that the minor meets the criteria for a ~~((fourteen-day))~~ 14-day commitment, the court shall either authorize commitment of the minor for inpatient treatment or for less restrictive alternative treatment upon such conditions as are necessary. If the court determines that the minor does not meet the criteria for a ~~((fourteen-day))~~ 14-day commitment, the minor shall be released.

(b) If the court finds by clear, cogent, and convincing evidence that the minor is in need of assisted outpatient treatment pursuant to a petition filed under RCW 71.34.815, the court shall order an appropriate less restrictive course of treatment for up to 18 months.

(11) (a) Nothing in this section prohibits the professional person in charge of the facility from releasing the minor at any time, when, in the opinion of the professional person in charge of the facility, further inpatient treatment is no longer necessary. The release may be subject to reasonable conditions if appropriate.

(b) Whenever a minor is released under this section, the professional person in charge shall within three days, notify the court in writing of the release.

(12) A minor who has been committed for fourteen days shall be released at the end of that period unless a petition for ~~((one hundred eighty-day))~~ 180-day commitment is pending before the court.

Sec. 8. RCW 71.34.740 and 2020 c 302 s 93 are each amended to read as follows:

(1) A ~~((commitment))~~ hearing shall be held within ~~((one hundred twenty))~~ 120 hours of the minor's admission, excluding Saturday, Sunday, and holidays, or if the hearing is held on a petition filed under RCW 71.34.815, the hearing shall be held at a time scheduled under that section, unless a continuance is ordered under RCW 71.34.735.

(2) The ~~((commitment))~~ hearing shall be conducted at the superior court or an appropriate place at the facility in which the minor is being detained.

(3) At the ~~((commitment))~~ hearing, the evidence in support of the petition shall be presented by the county prosecutor.

(4) The minor shall be present at the ~~((commitment))~~ hearing unless the minor, with the assistance of the minor's attorney, waives the right to be present at the hearing.

(5) If the parents are opposed to the petition, they may be represented at the hearing and shall be entitled to court-appointed counsel if they are indigent.

(6) At the ~~((commitment))~~ hearing, the minor shall have the following rights:

(a) To be represented by an attorney;
 (b) To present evidence on his or her own behalf;
 (c) To question persons testifying in support of the petition.

(7) If the ~~((hearing))~~ petition is for ~~((commitment for))~~ mental health treatment, the court at the time of the ~~((commitment))~~ hearing and before an order ~~((of commitment))~~ making findings is entered shall inform the minor both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.34.730 will result in the loss of his or her firearm rights if the minor is subsequently ~~((detained for))~~ ordered to receive involuntary treatment under this section.

(8) If the minor has received medication within ~~((twenty-four))~~ 24 hours of the hearing, the court shall be informed of that fact and of the probable effects of the medication.

(9) For a ~~((fourteen-day))~~ 14-day commitment, the court must find by a preponderance of the evidence that:

(a) The minor has a behavioral health disorder and presents a likelihood of serious harm or is gravely disabled;

(b) The minor is in need of evaluation and treatment of the type provided by the inpatient evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program to which continued inpatient care is sought or is in need of less restrictive alternative treatment found to be in the best interests of the minor or others; and

(c) The minor is unwilling or unable in good faith to consent to voluntary treatment.

(10) (a) If the court finds that the minor meets the criteria for a ~~((fourteen-day))~~ 14-day commitment, the court shall either authorize commitment of the minor for inpatient treatment or for less restrictive alternative treatment upon such conditions as are necessary. If the court determines that the minor does not meet the criteria for a ~~((fourteen-day))~~ 14-day commitment, the minor shall be released.

(b) If the court finds by clear, cogent, and convincing evidence that the minor is in need of assisted outpatient treatment pursuant to a petition filed under RCW 71.34.815, the court shall order an appropriate less restrictive course of treatment for up to 18 months.

(11) (a) Nothing in this section prohibits the professional person in charge of the facility from releasing the minor at any time, when, in the opinion of the professional person in charge of the facility, further inpatient treatment is no longer necessary. The release may be subject to reasonable conditions if appropriate.

(b) Whenever a minor is released under this section, the professional person in charge shall within three days, notify the court in writing of the release.

(12) A minor who has been committed for fourteen days shall be released at the end of that period unless a petition for ~~((one hundred eighty-day))~~ 180-day commitment is pending before the court.

Sec. 9. RCW 71.34.780 and 2020 c 302 s 97 are each amended to read as follows:

(1) An agency or facility designated to monitor or provide less restrictive alternative treatment services to a minor under a court order or conditional release may take a range of actions to enforce the terms of the order or conditional release in the event the minor is not adhering to the terms or is experiencing substantial deterioration, decompensation, or a likelihood of serious harm. Such actions may include:

(a) Counseling the minor and offering incentives for compliance;

(b) Increasing the intensity of services;
(c) Petitioning the court to review the minor's compliance and optionally modify the terms of the order or conditional release while the minor remains in outpatient treatment;

(d) To request assistance from a peace officer for temporarily detaining the minor for up to 12 hours for evaluation at a crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility, facility providing services under a court order, or emergency department to determine if revocation or enforcement proceedings under this section are necessary and appropriate to stabilize the minor, if there has been a pattern of noncompliance or failure of reasonable attempts at outreach and engagement; or

(e) Initiation of revocation proceedings under subsection (2) of this section.

(2) If the professional person in charge of an outpatient treatment program, a designated crisis responder, or the director or secretary, as appropriate, determines that a minor is failing to adhere to the conditions of ~~((the))~~ a court order for less restrictive alternative treatment or the conditions ~~((for the))~~ of a conditional release, or that substantial deterioration in the minor's functioning has occurred, the designated crisis responder, or the director or secretary, as appropriate, may order that the minor be taken into custody and transported to an inpatient evaluation and treatment facility, a secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program. A secure withdrawal management and stabilization facility or approved substance use disorder treatment program that has adequate space for the minor must be available.

~~((2))~~ (3) (a) The designated crisis responder, director, or secretary, as appropriate, shall file the order of apprehension and detention and serve it upon the minor and notify the minor's parent and the minor's attorney, if any, of the detention within two days of return. At the time of service the minor shall be informed of the right to a hearing and to representation by an attorney. The designated crisis responder or the director or secretary, as appropriate, may modify or rescind the order of apprehension and detention at any time prior to the hearing.

(b) If the minor is involuntarily detained for revocation at an evaluation and treatment facility, secure withdrawal

management and stabilization facility, or approved substance use disorder treatment program in a different county from where the minor was initially detained, the facility or program may file the order of apprehension, serve it on the minor and notify the minor's parents and the minor's attorney at the request of the designated crisis responder.

~~((3))~~(4) A petition for revocation of less restrictive alternative treatment shall be filed by the designated crisis responder or the director, secretary, or facility, as appropriate, with the court in the county where the minor is detained. The court shall conduct the hearing in that county. A petition for revocation of conditional release must be filed in the county where the minor is detained. A petition shall describe the behavior of the minor indicating violation of the conditions or deterioration of routine functioning and a dispositional recommendation. The hearing shall be held within seven days of the minor's return. The issues to be determined are whether the minor did or did not adhere to the conditions of the less restrictive alternative treatment or conditional release, or whether the minor's routine functioning has substantially deteriorated, and, if so, whether the conditions of less restrictive alternative treatment or conditional release should be modified or, subject to subsection ~~((4))~~(5) of this section, whether the ~~(minor)~~ court should ~~(be returned to)~~ order the minor's detention for inpatient treatment. Pursuant to the determination of the court, the minor shall be returned to less restrictive alternative treatment or conditional release on the same or modified conditions or shall be ~~(returned to)~~ detained for inpatient treatment. If the minor is ~~(returned to)~~ detained for inpatient treatment, RCW 71.34.760 regarding the director's placement responsibility shall apply. The hearing may be waived by the minor and the minor ~~(returned to)~~ detained for inpatient treatment or returned to less restrictive alternative treatment or conditional release on the same or modified conditions. If the court orders detention for inpatient treatment, the treatment period must be for 14 days from the revocation hearing if the less restrictive alternative treatment order was based on a petition under RCW 71.34.740 or 71.34.815. The minor must return to less restrictive alternative treatment under the order at the end of the 14-day period unless a petition for further treatment is filed under RCW 71.34.750 or the minor accepts voluntary treatment. If the court orders detention for inpatient treatment and the less restrictive alternative treatment order or conditional release was based on a petition under RCW 71.34.750, the number of days remaining on the less restrictive alternative treatment order or conditional release must be converted to days of inpatient treatment.

~~((4))~~(5) A court may not order the ~~(return)~~ placement of a minor to inpatient treatment in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program unless there is a secure withdrawal

management and stabilization facility or approved substance use disorder treatment program available with adequate space for the minor.

Sec. 10. RCW 71.34.780 and 2020 c 302 s 98 are each amended to read as follows:

(1) An agency or facility designated to monitor or provide less restrictive alternative treatment services to a minor under a court order or conditional release may take a range of actions to enforce the terms of the order or conditional release in the event the minor is not adhering to the terms or is experiencing substantial deterioration, decompensation, or a likelihood of serious harm. Such actions may include:

(a) Counseling the minor and offering incentives for compliance;

(b) Increasing the intensity of services;

(c) Petitioning the court to review the minor's compliance and optionally modify the terms of the order or conditional release while the minor remains in outpatient treatment;

(d) To request assistance from a peace officer for temporarily detaining the minor for up to 12 hours for evaluation at a crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility, facility providing services under a court order, or emergency department to determine if revocation or enforcement proceedings under this section are necessary and appropriate to stabilize the minor, if there has been a pattern of noncompliance or failure of reasonable attempts at outreach and engagement; or

(e) Initiation of revocation proceedings under subsection (2) of this section.

(2) If the professional person in charge of an outpatient treatment program, a designated crisis responder, or the director or secretary, as appropriate, determines that a minor is failing to adhere to the conditions of ~~(the)~~ a court order for less restrictive alternative treatment or the conditions ~~(for the)~~ of conditional release, or that substantial deterioration in the minor's functioning has occurred, the designated crisis responder, or the director or secretary, as appropriate, may order that the minor be taken into custody and transported to an inpatient evaluation and treatment facility, a secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program.

~~((2))~~(3)(a) The designated crisis responder, director, or secretary, as appropriate, shall file the order of apprehension and detention and serve it upon the minor and notify the minor's parent and the minor's attorney, if any, of the detention within two days of return. At the time of service the minor shall be informed of the right to a hearing and to representation by an attorney. The designated crisis responder or the director or secretary, as appropriate, may modify or rescind the order of apprehension and detention at any time prior to the hearing.

(b) If the minor is involuntarily detained for revocation at an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program in a different county from where the minor was initially detained, the facility or program may file the order of apprehension, serve it on the minor and notify the minor's parents and the minor's attorney at the request of the designated crisis responder.

~~((3))~~(4) A petition for revocation of less restrictive alternative treatment shall be filed by the designated crisis responder or the director, secretary, or facility, as appropriate, with the court in the county where the minor is detained. The court shall conduct the hearing in that county. A petition for revocation of conditional release must be filed in the county where the minor is detained. A petition shall describe the behavior of the minor indicating violation of the conditions or deterioration of routine functioning and a dispositional recommendation. The hearing shall be held within seven days of the minor's return. The issues to be determined are whether the minor did or did not adhere to the conditions of the less restrictive alternative treatment or conditional release, or whether the minor's routine functioning has substantially deteriorated, and, if so, whether the conditions of less restrictive alternative treatment or conditional release should be modified or whether the ~~(minor)~~court should ~~((be returned to))~~order the minor's detention for inpatient treatment. Pursuant to the determination of the court, the minor shall be returned to less restrictive alternative treatment or conditional release on the same or modified conditions or shall be ~~((returned to))~~detained for inpatient treatment. If the minor is ~~((returned to))~~detained for inpatient treatment, RCW 71.34.760 regarding the director's placement responsibility shall apply. The hearing may be waived by the minor and the minor ~~((returned to))~~detained for inpatient treatment or returned to less restrictive alternative treatment or conditional release on the same or modified conditions. If the court orders detention for inpatient treatment, the treatment period must be for 14 days from the revocation hearing if the less restrictive alternative treatment order was based on a petition under RCW 71.34.740 or 71.34.815. The minor must return to less restrictive alternative treatment under the order at the end of the 14-day period unless a petition for further treatment is filed under RCW 71.34.750 or the minor accepts voluntary treatment. If the court orders detention for inpatient treatment and the less restrictive alternative treatment order or conditional release was based on a petition under RCW 71.34.750, the number of days remaining on the less restrictive alternative treatment order or conditional release must be converted to days of inpatient treatment.

Sec. 11. RCW 71.34.815 and 2022 c 210 s 4 are each amended to read as follows:

(1) An adolescent is in need of assisted outpatient treatment if the court finds by clear, cogent, and convincing evidence in response to a petition filed under this section that:

(a) The adolescent has a behavioral health disorder;

(b) Based on a clinical determination and in view of the adolescent's treatment history and current behavior, at least one of the following is true:

(i) The adolescent is unlikely to survive safely in the community without supervision and the adolescent's condition is substantially deteriorating; or

(ii) The adolescent is in need of assisted outpatient treatment in order to prevent a relapse or deterioration that would be likely to result in grave disability or a likelihood of serious harm to the adolescent or to others;

(c) The adolescent has a history of lack of compliance with treatment for his or her behavioral health disorder that has:

(i) At least twice within the 36 months prior to the filing of the petition been a significant factor in necessitating hospitalization of the adolescent, or the adolescent's receipt of services in a forensic or other mental health unit of a state ~~((correctional))~~juvenile rehabilitation facility or local ~~((correctional))~~juvenile detention facility, provided that the 36-month period shall be extended by the length of any hospitalization or incarceration of the adolescent that occurred within the 36-month period;

(ii) At least twice within the 36 months prior to the filing of the petition been a significant factor in necessitating emergency medical care or hospitalization for behavioral health-related medical conditions including overdose, infected abscesses, sepsis, endocarditis, or other maladies, or a significant factor in behavior which resulted in the adolescent's incarceration in a state or local correctional facility; or

(iii) Resulted in one or more violent acts, threats, or attempts to cause serious physical harm to the adolescent or another within the 48 months prior to the filing of the petition, provided that the 48-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred during the 48-month period;

(d) Participation in an assisted outpatient treatment program would be the least restrictive alternative necessary to ensure the adolescent's recovery and stability; and

(e) The adolescent will benefit from assisted outpatient treatment.

(2) The following individuals may directly file a petition for less restrictive alternative treatment on the basis that an adolescent is in need of assisted outpatient treatment:

(a) The director of a hospital where the adolescent is hospitalized or the director's designee;

(b) The director of a behavioral health service provider providing behavioral health

care or residential services to the adolescent or the director's designee;

(c) The adolescent's treating mental health professional or substance use disorder professional or one who has evaluated the person;

(d) A designated crisis responder;

(e) A release planner from a juvenile detention or rehabilitation facility; or

(f) An emergency room physician.

(3) A court order for less restrictive alternative treatment on the basis that the adolescent is in need of assisted outpatient treatment may be effective for up to 18 months, unless the adolescent is currently detained for inpatient treatment for 14 days or more under RCW 71.34.740 or 71.34.750, in which case the order may be effective for 180 days. The petitioner must personally interview the adolescent, unless the adolescent refuses an interview, to determine whether the adolescent will voluntarily receive appropriate treatment.

(4) The petitioner must allege specific facts based on personal observation, evaluation, or investigation, and must consider the reliability or credibility of any person providing information material to the petition.

(5) The petition must include:

(a) A statement of the circumstances under which the adolescent's condition was made known and the basis for the opinion, from personal observation or investigation, that the adolescent is in need of assisted outpatient treatment. The petitioner must state which specific facts come from personal observation and specify what other sources of information the petitioner has relied upon to form this belief;

(b) A declaration from a physician, physician assistant, or advanced registered nurse practitioner, ~~((or))~~ the adolescent's treating mental health professional or substance use disorder professional, or in the case of a person enrolled in treatment in a behavioral health agency, the person's behavioral health case manager, who has examined the adolescent no more than 10 days prior to the submission of the petition and who is willing to testify in support of the petition, or who alternatively has made appropriate attempts to examine the adolescent within the same period but has not been successful in obtaining the adolescent's cooperation, and who is willing to testify to the reasons they believe that the adolescent meets the criteria for assisted outpatient treatment ~~((If the declaration is provided by the adolescent's treating mental health professional or substance use disorder professional, it must be cosigned by a supervising physician, physician assistant, or advanced registered nurse practitioner who certifies that they have reviewed the declaration))~~;

(c) The declarations of additional witnesses, if any, supporting the petition for assisted outpatient treatment;

(d) The name of an agency, provider, or facility that agrees to provide less restrictive alternative treatment if the petition is granted by the court; and

(e) If the adolescent is detained in a state hospital, inpatient treatment facility, or juvenile detention or

rehabilitation facility at the time the petition is filed, the anticipated release date of the adolescent and any other details needed to facilitate successful reentry and transition into the community.

(6) (a) Upon receipt of a petition meeting all requirements of this section, the court shall fix a date for a hearing:

(i) No sooner than three days or later than seven days after the date of service or as stipulated by the parties or, upon a showing of good cause, no later than 30 days after the date of service; or

(ii) If the adolescent is hospitalized at the time of filing of the petition, before discharge of the adolescent and in sufficient time to arrange for a continuous transition from inpatient treatment to assisted outpatient treatment.

(b) A copy of the petition and notice of hearing shall be served, in the same manner as a summons, on the petitioner, the adolescent, the qualified professional whose affidavit accompanied the petition, a current provider, if any, and a surrogate decision maker or agent under chapter 71.32 RCW, if any.

(c) If the adolescent has a surrogate decision maker or agent under chapter 71.32 RCW who wishes to provide testimony at the hearing, the court shall afford the surrogate decision maker or agent an opportunity to testify.

(d) The adolescent shall be represented by counsel at all stages of the proceedings.

(e) If the adolescent fails to appear at the hearing after notice, the court may conduct the hearing in the adolescent's absence; provided that the adolescent's counsel is present.

(f) If the adolescent has refused to be examined by the qualified professional whose affidavit accompanied the petition, the court may order a mental examination of the adolescent. The examination of the adolescent may be performed by the qualified professional whose affidavit accompanied the petition. If the examination is performed by another qualified professional, the examining qualified professional shall be authorized to consult with the qualified professional whose affidavit accompanied the petition.

(g) If the adolescent has refused to be examined by a qualified professional and the court finds reasonable grounds to believe that the allegations of the petition are true, the court may issue a written order directing a peace officer who has completed crisis intervention training to detain and transport the adolescent to a provider for examination by a qualified professional. An adolescent detained pursuant to this subsection shall be detained no longer than necessary to complete the examination and in no event longer than 24 hours. All papers in the court file must be provided to the adolescent's designated attorney.

(7) If the petition involves an adolescent whom the petitioner or behavioral health administrative services organization knows, or has reason to know, is an American Indian or Alaska Native who receives medical or behavioral health services from a tribe within this state, the behavioral health administrative services organization shall

notify the tribe and Indian health care provider. Notification shall be made in person or by telephonic or electronic communication to the tribal contact listed in the authority's tribal crisis coordination plan as soon as possible.

(8) A petition for assisted outpatient treatment filed under this section shall be adjudicated under RCW 71.34.740.

(9) ~~((After January 1, 2023, a))~~ A petition for assisted outpatient treatment must be filed on forms developed by the administrative office of the courts.

NEW SECTION. **Sec. 12.** Sections 3, 7, and 9 of this act expire July 1, 2026.

NEW SECTION. **Sec. 13.** Sections 4, 8, and 10 of this act take effect July 1, 2026.

Sec. 14. 2021 c 264 s 29 (uncodified) is amended to read as follows:

(1) Sections 64 and 81, chapter 302, Laws of 2020 ~~((and, until July 1, 2022, section 27, chapter 264, Laws of 2021 and, beginning July 1, 2022)),~~ section 28, chapter 264, Laws of 2021, and section 6, chapter . . . , Laws of 2023 (section 6 of this act) take effect when the average wait time for children's long-term inpatient placement admission is 30 days or less for two consecutive quarters.

(2) The health care authority must provide written notice of the effective date of sections 64 and 81, chapter 302, Laws of 2020 ~~((and))~~, section((s—27—and)) 28, chapter 264, Laws of 2021, and section 6, chapter . . . , Laws of 2023 (section 6 of this act) to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the authority.

NEW SECTION. **Sec. 15.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chambers, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Davis; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Ryu; Sandlin; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Corry, Assistant Ranking Minority Member; Connors; Couture; Dye; Rude; and Schmick.

Referred to Committee on Rules for second reading

April 1, 2023

SB 5131

Prime Sponsor, Senator Wilson, C.:
Concerning money received by the department of corrections on behalf of inmates from family or other outside sources

for the purchase of commissary items.
Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 72.09.480 and 2015 c 238 s 1 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) ~~((and—(8)))~~ through (10) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order;

(e) Twenty percent to the department to contribute to the cost of incarceration; and

(f) Twenty percent for payment of any civil judgment for assault for all inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(3) When an inmate, except as provided in subsection ~~((+9))~~ (10) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) and (f) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost

of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an inmate from family or other outside sources for the payment of certain medical expenses. Money received under this subsection may only be used for the payment of medical expenses associated with the purchase of eyeglasses, over-the-counter medications, and offender copayments. Funds received specifically for these purposes may not be transferred to any other account or purpose. Money that remains unused in the inmate's medical fund at the time of release is subject to deductions under subsection (2) of this section.

(9) The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an inmate from family or other outside sources for the purchase of commissary items. Money received under this subsection may only be used for the purchase of items on the facility commissary list. The amount received by each inmate under this subsection may not exceed the monthly allowance for commissary purchases as allowed by the department. Funds received specifically for these purposes may not be transferred to any other fund, account, or purpose. Money that remains unused in the inmate's commissary fund at the time of release is subject to deductions under subsection (2) of this section.

(10) Inmates sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

~~((10))~~ (11) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a

personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

~~((11))~~ (12) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

~~((12))~~ (13) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

NEW SECTION. Sec. 2. A new section is added to chapter 72.09 RCW to read as follows:

The department shall allow any person who is an immediate family member of one or more inmates to send money for commissary purchases to such inmates without requiring approval from the superintendent of the applicable facility or facilities."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Steele and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5134

Prime Sponsor, Ways & Means: Concerning reentry services and supports. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Community Safety, Justice, & Reentry.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that successful rehabilitation and reentry has a positive impact on reduced recidivism rates and increased community safety. The legislature further finds that the success of individuals releasing from confinement in correctional institutions can be increased through access to supportive services, medical assistance, and other necessities. The legislature recognizes that the mortality rate in the first 72 hours following release from confinement is on average 18 times higher than the general population. The legislature further finds that access to basic human needs like food, medication, clothing, transportation, and shelter are necessary supports for most individuals exiting confinement. Therefore, the legislature resolves to enhance

recovery, reduce recidivism, and improve public safety by providing increased access to supportive services and assistance following release from confinement.

Sec. 2. RCW 72.02.100 and 2022 c 29 s 2 are each amended to read as follows:

(1) Any person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the indeterminate sentence review board, or who is discharged from custody upon expiration of sentence, or who is ordered discharged from custody by a court of appropriate jurisdiction, shall be entitled to retain his or her earnings from labor or employment while in confinement and shall be supplied by the superintendent of the state correctional facility with suitable and presentable clothing, the sum of no less than \$40 for subsistence, and transportation by the least expensive method of public transportation not to exceed the cost of \$100 to his or her place of residence or the place designated in his or her parole plan, or to the place from which committed if such person is being discharged on expiration of sentence, or discharged from custody by a court of appropriate jurisdiction: PROVIDED, That up to ~~((60 additional dollars))~~ an additional \$60 may be made available to the parolee for necessary personal and living expenses upon application to and approval by such person's community corrections officer. If in the opinion of the superintendent suitable arrangements have been made to provide the person to be released with suitable clothing and/or the expenses of transportation, the superintendent may consent to such arrangement. If the superintendent has reasonable cause to believe that the person to be released has ample funds, with the exception of earnings from labor or employment while in confinement, to assume the expenses of clothing, transportation, or the expenses for which payments made pursuant to this section or RCW 72.02.110 or any one or more of such expenses, the person released shall be required to assume such expenses.

(2)(a) The department of corrections may provide temporary housing assistance for a person being released from any state correctional facility through the use of rental vouchers, for a period not to exceed six months, if the department finds that such assistance will support the person's release into the community by preventing housing instability or homelessness. The department's authority to provide vouchers under this section is independent of its authority under RCW 9.94A.729; however, a person may not receive a combined total of rental vouchers in excess of six months for each release from a state correctional facility.

(b) The department shall establish policies for prioritizing funds available for housing vouchers under this section for persons at risk of releasing homeless or becoming homeless without assistance while taking into account risk to reoffend.

Sec. 3. RCW 72.09.270 and 2021 c 200 s 3 are each amended to read as follows:

(1) The department of corrections shall develop an individual reentry plan as defined in RCW 72.09.015 for every incarcerated individual who is committed to the jurisdiction of the department except:

(a) Incarcerated individuals who are sentenced to life without the possibility of release or sentenced to death under chapter 10.95 RCW; and

(b) Incarcerated individuals who are subject to the provisions of 8 U.S.C. Sec. 1227.

(2) The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements of this section.

(3) In developing individual reentry plans, the department shall assess all incarcerated individuals using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, and educational and vocational skill levels for each incarcerated individual. The assessment tool should take into account demographic biases, such as culture, age, and gender, as well as the needs of the incarcerated individual, including any learning disabilities, substance abuse or mental health issues, and social or behavior challenges.

(4)(a) The initial assessment shall be conducted as early as sentencing, but, whenever possible, no later than forty-five days of being sentenced to the jurisdiction of the department of corrections.

(b) The incarcerated individual's individual reentry plan shall be developed as soon as possible after the initial assessment is conducted, but, whenever possible, no later than sixty days after completion of the assessment, and shall be periodically reviewed and updated as appropriate.

(5) The individual reentry plan shall, at a minimum, include:

(a) A plan to maintain contact with the incarcerated individual's children and family, if appropriate. The plan should determine whether parenting classes, or other services, are appropriate to facilitate successful reunification with the incarcerated individual's children and family;

(b) An individualized portfolio for each incarcerated individual that includes the incarcerated individual's education achievements, certifications, employment, work experience, skills, and any training received prior to and during incarceration; and

(c) A plan for the incarcerated individual during the period of incarceration through reentry into the community that addresses the needs of the incarcerated individual including education, employment, substance abuse treatment, mental health treatment, family reunification, and other areas which are needed to facilitate a successful reintegration into the community.

(6)(a) ~~((Prior to))~~ Within one year prior to the release or discharge of any incarcerated individual, the department shall develop an individual discharge plan

and provide reentry linkage case management services as follows:

(i) Evaluate the incarcerated individual's behavioral health and physical health needs and, to the extent possible, connect the incarcerated individual with ((existing services and resources that meet those needs)) relevant services, treatment programs, medication-assisted treatment, tribal and urban health clinics, and behavioral health services, and other resources based on the individual's evaluated needs;

(ii) Assist the incarcerated individual with obtaining identification upon release;

(iii) Assist the incarcerated individual with submitting applications for applicable state and federal government assistance and benefits programs on behalf of the incarcerated individual;

(iv) Prepare a 90-day supply of any necessary prescribed medications to be provided upon release, through a combination of a 30-day supply of in-hand medications and 60-day supply of prescriptions, when clinically appropriate, to ensure continuity of care and that medications are readily available for the incarcerated individual upon release; and

~~((ii))~~ (v) Connect the incarcerated individual with a community justice center and/or community transition coordination network in the area in which the incarcerated individual will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in an incarcerated individual's individual reentry plan, the department shall maximize the period of partial confinement for the incarcerated individual as allowed pursuant to RCW 9.94A.728 to facilitate the incarcerated individual's transition to the community.

(7) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the incarcerated individual's treatment, programming, and reentry, when deemed appropriate. When feasible, this information shall be shared electronically.

(8) (a) In determining the county of discharge for an incarcerated individual released to community custody, the department may approve a residence location that is not in the incarcerated individual's county of origin if the department determines that the residence location would be appropriate based on any court-ordered condition of the incarcerated individual's sentence, victim safety concerns, and factors that increase opportunities for successful reentry and long-term support including, but not limited to, location of family or other sponsoring persons or organizations that will support the incarcerated individual, ability to complete an educational program that the incarcerated individual is enrolled in, availability of appropriate programming or treatment, and access to housing, employment, and prosocial influences on the person in the community.

(b) In implementing the provisions of this subsection, the department shall approve residence locations in a manner that

will not cause any one county to be disproportionately impacted.

(c) If the incarcerated individual is not returned to his or her county of origin, the department shall provide the law and justice council of the county in which the incarcerated individual is placed with a written explanation.

(d) (i) For purposes of this section, except as provided in (d) (ii) of this subsection, the incarcerated individual's county of origin means the county of the incarcerated individual's residence at the time of the incarcerated individual's first felony conviction in Washington state.

(ii) If the incarcerated individual is a homeless person as defined in RCW 43.185C.010, or the incarcerated individual's residence is unknown, then the incarcerated individual's county of origin means the county of the incarcerated individual's first felony conviction in Washington state.

(9) Nothing in this section creates a vested right in programming, education, or other services.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Couture; Davis; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; and Dye.

Referred to Committee on Rules for second reading

March 31, 2023

ESSB 5217

Prime Sponsor, Labor & Commerce: Concerning the state's ability to regulate certain industries and risk classifications to prevent musculoskeletal injuries and disorders. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Harris; Rude; Sandlin; Schmick; and Steele.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5225

Prime Sponsor, Ways & Means: Increasing access to the working connections child care program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Ryu; Sandlin; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Dye; Rude; and Schmick.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; and Steele.

Referred to Committee on Rules for second reading

April 3, 2023

SB 5228

Prime Sponsor, Senator Dhingra: Providing occupational therapy services for persons with behavioral health disorders. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2023

SSB 5238

Prime Sponsor, Ways & Means: Expanding collective bargaining for employees who are enrolled in academic programs at public institutions of higher education. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Dye; Sandlin; and Schmick.

MINORITY recommendation: Without recommendation. Signed by Representative Connors.

Referred to Committee on Rules for second reading

April 4, 2023

E2SSB 5243

Prime Sponsor, Ways & Means: Concerning high school and beyond planning. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Education. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2023

SSB 5256

Prime Sponsor, Human Services: Making permanent and expanding the child welfare housing assistance program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5263

Prime Sponsor, Ways & Means: Concerning access to psilocybin services by individuals 21 years of age and older. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Couture; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Dye; and Harris.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; and Steele.

Referred to Committee on Rules for second reading

April 3, 2023

2SSB 5268

Prime Sponsor, Ways & Means: Addressing equity and efficiencies in public works procurement including modifying small works roster requirements. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5269

Prime Sponsor, Ways & Means: Concerning
Washington state manufacturing. Reported
by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting
clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature
finds and declares that:

(1) In 2021, Washington state set an aspirational goal in statute to double manufacturing jobs, firms, and the participation of women and minorities in the ownership of manufacturing firms. To create and maintain unity around the state manufacturing growth target, chapter 64, Laws of 2021 sought to foster a partnership between business and labor. It established a manufacturing council with membership that was intentionally balanced equally between business and labor and represented the geographic and demographic diversity of the state. The manufacturing council was tasked with advising the department of commerce on policy recommendations to strengthen the manufacturing sector by 2030 and submitting reports to the legislature every two years containing those recommendations.

(2) The legislature intends for an independent assessment of growth opportunities in clean manufacturing to be considered by the manufacturing council. Furthermore, the legislature intends that a state industrial strategy that incorporates any input from the independent assessment not be published in any form or considered the state strategy until there is consensus of the manufacturing council on the recommendations and policies to be included in that strategy.

(3) Washington state, with its strong climate commitments, highly skilled workforce, and existing world-class manufacturing base is well positioned to be a global leader in clean manufacturing.

(4) A strong state and domestic manufacturing sector can provide stable, high-wage jobs and is a prerequisite to achieving Washington state's statutory commitment to net zero greenhouse gas emissions by 2050.

(5) All Washingtonians deserve the opportunity of a high-road manufacturing career. In building the Washington manufacturing workforce pipeline, the state should fully leverage the transferable skills of our existing manufacturing workforce and develop a comprehensive, in-state pipeline with wraparound services and equitable opportunities to ensure that every Washingtonian has a fair shake at a manufacturing career and intergenerational well-being and career growth opportunities.

(6) A holistic and coordinated state industrial strategy that seeks simultaneously to transform and revitalize Washington state's manufacturing base is

vital to prevent the leakage of jobs and carbon pollution.

(7) Washington has demonstrated a deep commitment to growing manufacturing. In 2021, the legislature set a goal of doubling the state's manufacturing base over 10 years. In 2022, the legislature created tax incentives and updated siting and permitting practices to accelerate the in-state production of clean energy product manufacturing. Developing a statewide industrial strategy is an important complement to accelerate progress and maximize the benefit of new tax incentives and siting and permitting practices.

(8) The bipartisan infrastructure act and inflation reduction act present a once in a generation opportunity to rapidly transform and grow Washington's manufacturing base in a way that advances the state's climate goals. The state has an important role to play in ensuring that Washington fully leverages federal funding opportunities and that the benefits are shared equitably.

(9) Washington must take steps to ensure that the transformation and growth of the state's manufacturing base simultaneously addresses and does not contribute to the disproportionate burden of pollution on overburdened communities.

NEW SECTION. **Sec. 2.** (1) The department of commerce must perform an independent assessment of opportunities for Washington to capture new and emerging industries that align with statewide greenhouse gas reduction limits and strengthen its existing manufacturing base. By October 1, 2024, and in compliance with RCW 43.01.036, the department of commerce shall submit the independent assessment to the appropriate committees of the legislature, and shall submit the assessment to the state manufacturing council established in RCW 43.330.762.

(2) By June 1, 2025, the department of commerce must develop a proactive state industrial strategy that seeks to strengthen and transform Washington's existing manufacturing base and capture new and emerging industries. The strategy should be informed by the independent assessment required by subsection (1) of this section. The manufacturing council convened pursuant to RCW 43.330.762 shall advise and consult on the development of the strategy.

(3) The independent assessment must include, but is not limited to:

(a) Assessing how the transition to net-zero emissions by 2050 will impact the potential futures of manufacturing in Washington, including identifying specific opportunities for Washington to actively seek investment in new and emerging industries and to transform and strengthen the state's existing manufacturing base to meet the needs of a net-zero economy, taking into account the Washington's existing key sectors, job quality, and regional diversity;

(b) Assessing the needs of Washington's existing manufacturers, including supply chain challenges and resources required to meet the statutory greenhouse gas emissions reductions in RCW 70A.45.020;

(c) Identifying opportunities to build and maximize the environmental and economic benefits of a circular economy for both new and existing industries in building out and strengthening Washington's manufacturing base;

(d) Identifying what is required to attract new private investment and transform and strengthen Washington's existing manufacturing base, including needs related to:

(i) Transportation and port infrastructure;

(ii) Supply chains;

(iii) Workforce; and

(iv) Energy;

(e) Identifying opportunities to support minority and women-owned firms and small and medium-sized firms in capturing new and emerging industries;

(f) Identifying existing and potential future gaps in the state's manufacturing sector that inhibit in-state manufacturers from producing the necessary goods, services, and infrastructure to transition to the net-zero economy and attract new investment in the state to accelerate the in-state production of clean energy product manufacturing; and

(g) Evaluating opportunities for the state's use of public ownership investment in developed and emerging manufacturing industries to address the existing and potential future gaps identified in (f) of this subsection. This evaluation shall provide recommendations on the highest and best uses of public resources as part of the state industrial strategy as provided in subsection (2) of this section.

(4) The workforce assessment referenced in subsection (3)(d)(iii) of this section should: (a) Catalogue and examine how to maximize the use of the existing manufacturing workforce's transferable skills; (b) address any remaining skills gaps and identify opportunities to build a manufacturing workforce pipeline that ensures all current and future Washingtonians have fair access to a manufacturing career by sector; and (c) ensure equitable and accessible pathways and advancement opportunities in manufacturing by sector.

(5) The energy assessment referenced in subsection (3)(d)(iv) of this section should include the quantity, price, and location of electricity necessary to decarbonize and grow Washington's existing manufacturing base and capture new and emerging industries.

(6) The independent assessment will not replace but may inform the work of the manufacturing council created in RCW 43.330.762 to advise and consult on the department of commerce's recommendations to achieve the goals established in RCW 43.330.760.

NEW SECTION. Sec. 3. (1) The department of commerce must appoint an industrial policy advisor to ensure that Washington state fully leverages available federal funding for manufacturing to meet the state's economic development goals in RCW 43.330.760 and the statutory greenhouse

gas emissions reductions in RCW 70A.45.020 and guide the implementation of the state industrial strategy created pursuant to section 2 of this act.

(2) The industrial policy advisor must:

(a) Track federal and other funding opportunities to transform and strengthen existing Washington manufacturers and promote the growth of new and emerging industries;

(b) Alert Washington manufacturers to relevant federal and other funding opportunities;

(c) Support Washington manufacturers in applying for federal and other funding opportunities and in completing required reporting;

(d) Work to ensure that Washington's pursuit of its goals in RCW 43.330.760 and 70A.45.020 are aligned and mutually reinforcing;

(e) Foster interagency and coordination and collaboration, including with the department of commerce sector leads, on manufacturing-related policymaking and activities, including both climate and economic development manufacturing-related policymaking;

(f) Coordinate with the workforce innovation sector lead, particularly with respect to building the manufacturing workforce pipeline; and

(g) Provide quarterly reports to the manufacturing council created in RCW 43.330.762.

(3) The industry policy advisor may also:

(a) Form expert committees with industry representatives to develop sector-specific strategies for attracting new investment and transforming and strengthening existing manufacturing consistent with the industrial strategy created pursuant to section 2 of this act;

(b) Assist local governments with economic plans to attract new investment and transform and strengthen existing manufacturing consistent with the industrial strategy created pursuant to section 2 of this act; and

(c) Support communities negatively impacted by the closure or relocation of manufacturing facilities by supporting efforts to attract new investment consistent with the industrial strategy created pursuant to section 2 of this act and facilitate the movement of existing skilled manufacturing workers into new industrial sectors.

NEW SECTION. Sec. 4. This act may be known and cited as the Washington clean manufacturing leadership act.

NEW SECTION. Sec. 5. Section 2 of this act is added to chapter 43.330 RCW and codified with the subchapter heading of "MANUFACTURING AND RESEARCH AND DEVELOPMENT SECTOR PROMOTION."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority

Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

E2SSB 5278 Prime Sponsor, Ways & Means:
Implementing audit recommendations to reduce barriers to home care aide certification. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Postsecondary Education & Workforce. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

SB 5282 Prime Sponsor, Senator Valdez: Authorizing vehicle dealers to file a report of sale. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.12.650 and 2016 c 86 s 1 are each amended to read as follows:

(1) **Releasing interest.** An owner releasing interest in a vehicle shall:

(a) Sign the release of interest section provided on the certificate of title or on a release of interest document or form approved by the department;

(b) Give the certificate of title or most recent evidence of ownership to the person gaining the interest in the vehicle;

(c) Give the person gaining interest in the vehicle an odometer disclosure statement if one is required; and

(d) Report the vehicle sold as provided in subsection (2) of this section.

(2) **Report of sale.** An owner shall notify the department, county auditor or other agent, or subagent appointed by the director in writing within five business days after a vehicle is or has been:

(a) Sold;

(b) Given as a gift to another person;

(c) Traded, either privately or to a dealership;

(d) Donated to charity;

(e) Turned over to an insurance company or wrecking yard; or

(f) Disposed of.

(3) **Report of sale properly filed.** A report of sale is properly filed if it is received by the department, county auditor or other agent, or subagent appointed by the director within five business days after the date of sale or transfer and it includes:

(a) The date of sale or transfer;

(b) The owner's full name and complete, current address;

(c) The full name and complete, current address of the person acquiring the vehicle, including street name and number, and apartment number if applicable, or post office box number, city or town, and postal code;

(d) The vehicle identification number and license plate number;

(e) A date or stamp by the department showing it was received on or before the fifth business day after the date of sale or transfer; and

(f) Payment of the fees required under RCW 46.17.050.

(4) **Report of sale - administration.** (a) The department shall:

(i) Provide or approve reports of sale forms;

(ii) Provide a system enabling an owner to submit reports of sale electronically;

(iii) Immediately update the department's vehicle record when a report of sale has been filed;

(iv) Provide instructions on release of interest forms that allow the seller of a vehicle to release their interest in a vehicle at the same time a financial institution, as defined in RCW 30A.22.040, releases its lien on the vehicle; and

(v) Send a report to the department of revenue that lists vehicles for which a report of sale has been received but no transfer of ownership has taken place. The department shall send the report once each quarter.

(b) A report of sale is not proof of a completed vehicle transfer for purposes of the collection of expenses related to towing, storage, and auction of an abandoned vehicle in situations where there is no evidence indicating the buyer knew of or was a party to acceptance of the vehicle transfer. A contract signed by the prior owner and the new owner, a certificate of title, a receipt, a purchase order or wholesale order, or other legal proof or record of acceptance of the vehicle by the new owner may be provided to establish legal responsibility for the abandoned vehicle.

(5) **Report of sale - licensed dealers.** A vehicle dealer as defined in RCW 46.70.011 may, but is not required to, file a report of sale on behalf of an owner who trades in, sells, or otherwise transfers ownership of a vehicle to the dealer. A vehicle dealer who files on behalf of an owner shall collect and remit the fees required under RCW 46.17.050 from the owner in addition to any other fees charged to or owed by the customer.

(6)(a) **Transferring ownership.** A person who has recently acquired a vehicle by purchase, exchange, gift, lease, inheritance, or legal action shall apply to the department, county auditor or other agent, or subagent appointed by the director for a new certificate of title within ~~(fifteen)~~15 days of delivery of the vehicle. A secured party who has possession of the certificate of title shall either:

(i) Apply for a new certificate of title on behalf of the owner and pay the fee required under RCW 46.17.100; or

(ii) Provide all required documents to the owner, as long as the transfer was not a breach of its security agreement, to allow the owner to apply for a new certificate of title.

(b) Compliance with this subsection does not affect the rights of the secured party.

~~((+6))~~ **(7) Certificate of title delivered to secured party.** The certificate of title must be kept by or delivered to the person who becomes the secured party when a security interest is reserved or created at the time of the transfer of ownership. The parties must comply with RCW 46.12.675.

~~((+7))~~ **(8) Penalty for late transfer.** A person who has recently acquired a motor vehicle by purchase, exchange, gift, lease, inheritance, or legal action who does not apply for a new certificate of title within ~~((fifteen))~~ **15** calendar days of delivery of the vehicle is charged a penalty, as described in RCW 46.17.140, when applying for a new certificate of title. It is a misdemeanor to fail or neglect to apply for a transfer of ownership within ~~((forty-five))~~ **45** days after delivery of the vehicle. The misdemeanor is a single continuing offense for each day that passes regardless of the number of days that have elapsed following the ~~((forty-five-day))~~ **45-day** time period.

~~((+8))~~ **(9) Penalty for late transfer - exceptions.** The penalty is not charged if the delay in application is due to at least one of the following:

(a) The department requests additional supporting documents;

(b) The department, county auditor or other agent, or subagent fails to perform or is neglectful;

(c) The owner is prevented from applying due to an illness or extended hospitalization;

(d) The legal owner fails or neglects to release interest;

(e) The owner did not know of the filing of a report of sale by the previous owner and signs an affidavit to the fact; or

(f) The department finds other conditions exist that adequately explain the delay.

~~((+9))~~ **(10) Review and issue.** The department shall review applications for certificates of title and issue certificates of title when it has determined that all applicable provisions of law have been complied with.

~~((+10))~~ **(11) Rules.** The department may adopt rules as necessary to implement this section."

Correct the title.

Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; Mena; Orcutt; Ramel; Ramos; Taylor; Volz; Walsh and Wylie.

Referred to Committee on Rules for second reading

March 31, 2023

SSB 5286

Prime Sponsor, Labor & Commerce:
Modifying the premium provisions of the paid family and medical leave program.
Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2023

2SSB 5290

Prime Sponsor, Ways & Means: Concerning consolidating local permit review processes.
Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.70B.140 and 1995 c 347 s 418 are each amended to read as follows:

(1) A local government by ordinance or resolution may exclude the following project permits from the provisions of RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process or time periods for approval which are different from that provided in RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130.

(2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

(3) A local government must exclude project permits for interior alterations from site plan review, provided that the interior alterations do not result in the following:

(a) Additional sleeping quarters or bedrooms;

(b) Nonconformity with federal emergency management agency substantial improvement thresholds; or

(c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

(4) Nothing in this section exempts interior alterations from otherwise

applicable building, plumbing, mechanical, or electrical codes.

(5) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

NEW SECTION. Sec. 2. A new section is added to chapter 36.70B RCW to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a consolidated permit review grant program. The department may award grants to any local government that provides, by ordinance, resolution, or other action, a commitment to the following building permit review consolidation requirements:

(a) Issuing final decisions on residential permit applications within 45 business days or 90 calendar days.

(i) To achieve permit review within the stated time periods, a local government must provide consolidated review for building permit applications. This may include an initial technical peer review of the application for conformity with the requirements of RCW 36.70B.070 by all departments, divisions, and sections of the local government with jurisdiction over the project.

(ii) A local government may contract with a third-party business to conduct the consolidated permit review or as additional inspection staff. Any funds expended for such a contract may be eligible for reimbursement under this act.

(iii) Local governments are authorized to use grant funds to contract outside assistance to audit their development regulations to identify and correct barriers to housing development.

(b) Establishing an application fee structure that would allow the jurisdiction to continue providing consolidated permit review within 45 business days or 90 calendar days.

(i) A local government may consult with local building associations to develop a reasonable fee system.

(ii) A local government must determine, no later than August 1, 2023, the specific fee structure needed to provide permit review within the time periods specified in this subsection (1)(b).

(2) A jurisdiction that is awarded a grant under this section must provide a quarterly report to the department of commerce. The report must include the average and maximum time for permit review during the jurisdiction's participation in the grant program.

(3) If a jurisdiction is unable to successfully meet the terms and conditions of the grant, the jurisdiction must enter a 90-day probationary period. If the jurisdiction is not able to meet the requirements of this section by the end of the probationary period, the jurisdiction is no longer eligible to receive grants under this section.

(4) For the purposes of this section, "residential permit" means a permit issued by a city or county that satisfies the conditions of RCW 19.27.015(5) and is within the scope of the international residential code, as adopted in accordance with chapter 19.27 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 36.70B RCW to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a grant program for local governments to update their permit review process from paper filing systems to software systems capable of processing digital permit applications, virtual inspections, electronic review, and with capacity for video storage.

(2) The department of commerce may only provide a grant under this section to a city if the city allows for the development of at least two units per lot on all lots zoned predominantly for residential use within its jurisdiction.

NEW SECTION. Sec. 4. A new section is added to chapter 36.70B RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce must convene a digital permitting process work group to examine potential license and permitting software for local governments to encourage streamlined and efficient permit review.

(2) The department of commerce, in consultation with the association of Washington cities and Washington state association of counties, shall appoint members to the work group representing groups including but not limited to:

- (a) Cities and counties;
- (b) Building industries; and
- (c) Building officials.

(3) The department of commerce must convene the first meeting of the work group by August 1, 2023. The department must submit a final report to the governor and the appropriate committees of the legislature by August 1, 2024. The final report must:

(a) Evaluate the existing need for digital permitting systems, including impacts on existing digital permitting systems that are already in place;

(b) Review barriers preventing local jurisdictions from accessing or adopting digital permitting systems;

(c) Evaluate the benefits and costs associated with a statewide permitting software system; and

(d) Provide budgetary, administrative policy, and legislative recommendations to increase the adoption of or establish a statewide system of digital permit review.

Sec. 5. RCW 36.70B.020 and 1995 c 347 s 402 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

(2) "Local government" means a county, city, or town.

(3) "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

(4) "Project permit" or "project permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to (~~building permits,~~) subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones (~~authorized by a comprehensive plan or subarea plan~~) which do not require a comprehensive plan amendment, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

(5) "Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

Sec. 6. RCW 36.70B.070 and 1995 c 347 s 408 are each amended to read as follows:

(1) (a) Within (~~twenty-eight~~) 28 days after receiving a project permit application, a local government planning pursuant to RCW 36.70A.040 shall (~~mail or~~) provide (~~in person~~) a written determination to the applicant (~~, stating~~).

(b) The written determination must state either:

~~((a))~~ (i) That the application is complete; or

~~((b))~~ (ii) That the application is incomplete and that the procedural submission requirements of the local government have not been met. The determination shall outline what is necessary to make the application procedurally complete.

(c) The number of days shall be calculated by counting every calendar day.

(d) To the extent known by the local government, the local government shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

(2) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government (~~and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently~~), as outlined on the project permit application. Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the local government. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur. However, if the procedural submission requirements, as outlined on the project permit application have been provided, the need for additional information or studies may not preclude a completeness determination.

(3) The determination of completeness may include or be combined with the following (~~as optional information~~):

(a) A preliminary determination of those development regulations that will be used for project mitigation;

(b) A preliminary determination of consistency, as provided under RCW 36.70B.040; (~~or~~)

(c) Other information the local government chooses to include; or

(d) The notice of application pursuant to the requirements in RCW 36.70B.110.

(4) (a) An application shall be deemed procedurally complete on the 29th day after receiving a project permit application under this section if the local government does not provide a written determination to the applicant that the application is procedurally incomplete as provided in subsection (1)(b)(ii) of this section. When the local government does not provide a written determination, they may still seek additional information or studies as provided for in subsection (2) of this section.

(b) Within (~~fourteen~~) 14 days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete application, the local

government shall notify the applicant whether the application is complete or what additional information is necessary.

(c) The notice of application shall be provided within 14 days after the determination of completeness pursuant to RCW 36.70B.110.

Sec. 7. RCW 36.70B.080 and 2004 c 191 s 2 are each amended to read as follows:

(1)(a) Development regulations adopted pursuant to RCW 36.70A.040 must establish and implement time periods for local government actions for each type of project permit application and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. The time periods for local government actions for each type of complete project permit application or project type should not exceed ~~(one hundred twenty days, unless the local government makes written findings that a specified amount of additional time is needed to process specific complete project permit applications or project types)~~ those specified in this section.

~~(The)~~(b) For project permits submitted after January 1, 2025, the development regulations must, for each type of permit application, specify the contents of a completed project permit application necessary for the complete compliance with the time periods and procedures.

~~(2-)~~(c) A jurisdiction may exclude certain permit types and timelines for processing project permit applications as provided for in RCW 36.70B.140.

(d) The time periods for local government action to issue a final decision for each type of complete project permit application or project type subject to this chapter should not exceed the following time periods unless modified by the local government pursuant to this section or RCW 36.70B.140:

(i) For project permits which do not require public notice under RCW 36.70B.110, a local government must issue a final decision within 65 days of the determination of completeness under RCW 36.70B.070;

(ii) For project permits which require public notice under RCW 36.70B.110, a local government must issue a final decision within 100 days of the determination of completeness under RCW 36.70B.070; and

(iii) For project permits which require public notice under RCW 36.70B.110 and a public hearing, a local government must issue a final decision within 170 days of the determination of completeness under RCW 36.70B.070.

(e) A jurisdiction may modify the provisions in (d) of this subsection to add permit types not identified, change the permit names or types in each category, address how consolidated review time periods may be different than permits submitted individually, and provide for how projects of a certain size or type may be differentiated. Unless otherwise provided for the consolidated review of more than one permit, the time period for a final decision shall be the longest of the permit time

periods identified in (d) of this subsection or as amended by a local government.

(f) If a local government does not adopt an ordinance or resolution modifying the provisions in (d) of this subsection, the time periods in (d) of this subsection apply.

(g) The number of days an application is in review with the county or city shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting every calendar day and the following time periods:

(i) Any period between the day that the county or city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;

(ii) Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the local government, in writing, that they would like to resume the application. A local government may set conditions for the temporary suspension of a permit application; and

(iii) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

(h) The time periods for a local government to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use, as required by the local government under RCW 36.70B.070.

(i) If, at any time, an applicant informs the local government, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the county or city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for local government action to issue a final decision for each type of project that is subject to this chapter. Any written notice from the local government to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this subsection, "nonresponsiveness" means that an applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.

(j) Annual amendments to the comprehensive plan are not subject to the requirements of this section.

(k) A county's or city's adoption of a resolution or ordinance to implement this subsection shall not be subject to appeal under chapter 36.70A RCW unless the resolution or ordinance modifies the time periods provided in (d) of this subsection by providing for a review period of more than 170 days for any project permit.

(l)(i) When permit time periods provided for in (d) of this subsection, as may be amended by a local government, and as may be extended as provided for in (i) of this subsection, are not met, a portion of the permit fee must be refunded to the applicant as provided in this subsection. A local government may provide for the collection of only 80 percent of a permit fee initially, and for the collection of the remaining balance if the permitting time periods are met. The portion of the fee refunded for missing time periods shall be:

(A) 10 percent if the final decision of the project permit application was made after the applicable deadline but the period from the passage of the deadline to the time of issuance of the final decision did not exceed 20 percent of the original time period; or

(B) 20 percent if the period from the passage of the deadline to the time of the issuance of the final decision exceeded 20 percent of the original time period.

(ii) Except as provided in RCW 36.70B.160, the provisions in this subsection (1)(l) are not applicable to cities and counties which have implemented at least three of the options in RCW 36.70B.160(1) (a) through (j) at the time an application is deemed procedurally complete.

(2)(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least ((twenty thousand))20,000 must, for each type of permit application, identify the total number of project permit applications for which decisions are issued according to the provisions of this chapter. For each type of project permit application identified, these counties and cities must establish and implement a deadline for issuing a notice of final decision as required by subsection (1) of this section and minimum requirements for applications to be deemed complete under RCW 36.70B.070 as required by subsection (1) of this section.

(b) Counties and cities subject to the requirements of this subsection also must prepare an annual performance report((s)) that ((include, at a minimum, the following information for each type of project permit application identified in accordance with the requirements of (a) of this subsection:

(i) Total number of complete applications received during the year;

(ii) Number of complete applications received during the year for which a notice of final decision was issued before the deadline established under this subsection;

(iii) Number of applications received during the year for which a notice of final decision was issued after the deadline established under this subsection;

(iv) Number of applications received during the year for which an extension of

time was mutually agreed upon by the applicant and the county or city;

(v) Variance of actual performance, excluding applications for which mutually agreed time extensions have occurred, to the deadline established under this subsection during the year; and

(vi) The mean processing time and the number standard deviation from the mean.

(c) Counties and cities subject to the requirements of this subsection must:

(i) Provide notice of and access to the annual performance reports through the county's or city's website; and

(ii) Post electronic facsimiles of the annual performance reports through the county's or city's website. Postings on a county's or city's website indicating that the reports are available by contacting the appropriate county or city department or official do not comply with the requirements of this subsection.

If a county or city subject to the requirements of this subsection does not maintain a website, notice of the reports must be given by reasonable methods, including but not limited to those methods specified in RCW 36.70B.110(4).

(3))includes information outlining time periods for certain permit types associated with housing. The report must provide:

(i) Permit time periods for certain permit processes in the county or city in relation to those established under this section, including whether the county or city has established shorter time periods than those provided in this section;

(ii) The total number of decisions issued during the year for the following permit types: Preliminary subdivisions, final subdivisions, binding site plans, permit processes associated with the approval of multifamily housing, and construction plan review for each of these permit types when submitted separately;

(iii) The total number of decisions for each permit type which included consolidated project permit review, such as concurrent review of a rezone or construction plans;

(iv) The total number of days from a submittal to a decision being issued. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a decision is issued on the application. The number of days shall be calculated by counting every calendar day;

(v) The total number of days the application was in review with the county or city. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the application. The number of days shall be calculated by counting every calendar day. The days the application is in review with the county or city does not include time periods between where the county or city has notified the applicant, in writing, that additional information is required to further process the application and when that information is submitted by the applicant. Time periods shall also be stopped when an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application; and

(vi) The total number of days the permit is the responsibility of the applicant, including days the county or city is waiting for additional information.

(c) Counties and cities subject to the requirements of this subsection must:

(i) Post the annual performance report through the county's or city's website; and

(ii) Submit the annual performance report to the department of commerce by March 1st each year.

(d) No later than July 1st each year, the department of commerce shall publish a report which includes the annual performance report data for each county and city subject to the requirements of this subsection and a list of those counties and cities whose time periods are shorter than those provided for in this section.

The annual report must also include key metrics and findings from the information collected.

(e) The initial annual report required under this subsection must be submitted to the department of commerce by March 1, 2025, and must include information from permitting in 2024.

(3) Nothing in this section prohibits a county or city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government.

((4) The department of community, trade, and economic development shall work with the counties and cities to review the potential implementation costs of the requirements of subsection (2) of this section. The department, in cooperation with the local governments, shall prepare a report summarizing the projected costs, together with recommendations for state funding assistance for implementation costs, and provide the report to the governor and appropriate committees of the senate and house of representatives by January 1, 2005-))

Sec. 8. RCW 36.70B.160 and 1995 c 347 s 420 are each amended to read as follows:

(1) Each local government is encouraged to adopt further project review and code provisions to provide prompt, coordinated review and ensure accountability to applicants and the public((, including expedited review for project permit applications for projects that are consistent with adopted development regulations and within the capacity of systemwide infrastructure improvements))by:

(a) Expediting review for project permit applications for projects that are consistent with adopted development regulations;

(b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the

ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law;

(c) Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources;

(d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly;

(e) Having new positions budgeted that are contingent on increased permit revenue;

(f) Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute;

(g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;

(h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;

(i) Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or

(j) Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.

(2)(a) After January 1, 2026, a county or city must adopt additional measures under subsection (1) of this section at the time of its next comprehensive plan update under RCW 36.70A.130 if it meets the following conditions:

(i) The county or city has adopted at least three project review and code provisions under subsection (1) of this section more than five years prior; and

(ii) The county or city is not meeting the permitting deadlines established in RCW 36.70B.080 at least half of the time over the period since its most recent comprehensive plan update under RCW 36.70A.130.

(b) A city or county that is required to adopt new measures under (a) of this subsection but fails to do so becomes subject to the provisions of RCW 36.70B.080(1)(1), notwithstanding RCW 36.70B.080(1)(1)(ii).

((2))((3)) (3) Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution.

((3))((4)) (4) Each local government shall adopt procedures to monitor and enforce permit decisions and conditions.

((4))((5)) (5) Nothing in this chapter modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.

NEW SECTION. Sec. 9. A new section is added to chapter 36.70B RCW to read as follows:

(1) The department of commerce shall develop and provide technical assistance and guidance to counties and cities in setting fee structures under RCW 36.70B.160(1) to ensure that the fees are reasonable and sufficient to recover true costs. The guidance must include information on how to utilize growth factors or other measures to reflect cost increases over time.

(2) When providing technical assistance under subsection (1) of this section, the department of commerce must prioritize local governments that have implemented at least three of the options in RCW 36.70B.160(1).

Sec. 10. RCW 36.70B.110 and 1997 c 429 s 48 and 1997 c 396 s 1 are each reenacted and amended to read as follows:

(1) Not later than April 1, 1996, a local government planning under RCW 36.70A.040 shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a threshold determination under chapter 43.21C RCW concurrently with the notice of application, the notice of application may be combined with the threshold determination and the scoping notice for a determination of significance. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application. Nothing in this section or this chapter prevents a lead agency, when it is a project proponent or is funding a project, from conducting its review under chapter 43.21C RCW or from allowing appeals of procedural determinations prior to submitting a project permit ((application)).

(2) The notice of application shall be provided within ((fourteen))14 days after the determination of completeness as provided in RCW 36.70B.070 and, except as limited by the provisions of subsection (4) (b) of this section, ((shall))must include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070 ((or 36.70B.090));

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to

comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW 36.70B.030(2) and 36.70B.040; and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

(a) Posting the property for site-specific proposals;

(b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the notice of application required by subsection (2) of this section and the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;

(f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

(g) Mailing to neighboring property owners.

(5) A notice of application shall not be required for project permits that are categorically exempt under chapter 43.21C RCW, unless an open record predecision hearing is required or an open record appeal hearing is allowed on the project permit decision.

(6) A local government shall integrate the permit procedures in this section with ((its)) environmental review under chapter 43.21C RCW as follows:

(a) Except for a threshold determination and except as otherwise expressly allowed in this section, the local government may not issue a decision or a recommendation on a project permit until the expiration of the public comment period on the notice of application.

(b) If an open record predecision hearing is required, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

(c) Comments shall be as specific as possible.

(d) A local government is not required to provide for administrative appeals of its threshold determination. If provided, an administrative appeal (~~(shall)~~) must be filed within fourteen days after notice that the determination has been made and is appealable. Except as otherwise expressly provided in this section, the appeal hearing on a threshold determination (~~(of nonsignificance shall)~~) must be consolidated with any open record hearing on the project permit.

(7) At the request of the applicant, a local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency, if:

(a) The hearing is held within the geographic boundary of the local government; and

(b) (~~The joint hearing can be held within the time periods specified in RCW 36.70B.090 or the~~) The applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as:

(a) The agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.

(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision and of any environmental determination issued at the same time as the project decision, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules adopted pursuant to chapter 43.21C RCW allow public comment on a

determination of nonsignificance issued as part of the appealable project permit decision.

(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.

(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations.

NEW SECTION. **Sec. 11.** The department of commerce shall develop a template for counties and cities subject to the requirements in RCW 36.70B.080, which will be utilized for reporting data.

NEW SECTION. **Sec. 12.** The department of commerce shall develop a plan to provide local governments with appropriately trained staff to provide temporary support or hard to find expertise for timely processing of residential housing permit applications. The plan shall include consideration of how local governments can be provided with staff that have experience with providing substitute staff support or that possess expertise in permitting policies and regulations in the local government's geographic area or with jurisdictions of the local government's size or population. The plan and a proposal for implementation shall be presented to the legislature by December 1, 2023.

NEW SECTION. **Sec. 13.** Section 7 of this act takes effect January 1, 2025."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

E2SSB 5311 Prime Sponsor, Ways & Means: Concerning special education funding formula. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that students receiving special education services are entitled, under both federal and state law, to a free appropriate public education that enables their full participation.

The legislature also finds that a cap or enrollment limit on the number of students receiving special education services that generate state special education funding is

not consistent with the state's duty to provide a free appropriate public education. An enrollment limit that fails to provide equity for all students with disabilities affects all students in public schools.

The legislature further finds that school districts pay for special education services with local funding, creating an inequitable situation for school districts and students. The legislature supports a system of funding that does not require school districts to generate local funding to meet their obligation to provide special education services.

The legislature finds that along with reliable and sufficient state funding, receiving special education services in the least restrictive environment possible is crucial to student success. A recent large-scale study found that students who spend at least 80 percent of their day in a general education setting improved their reading scores by 24 points and math scores by 18 points compared to peers with similar disabilities in less inclusive settings.

The legislature finds that the documented prevalence of disabilities amongst children, particularly amongst vulnerable populations and communities with disparately poor health outcomes and access to health services, indicates that the state should improve access to evaluations for disabilities.

The legislature finds that special education is fully part of the state's statutory program of basic education that is deemed by the legislature to implement Article IX, section 1 of the state Constitution.

The legislature, therefore, intends to fully fund special education services by removing the 13.5 percent cap, eliminating the cap entirely in the 2027-28 school year, and increasing the tiered special education multipliers for elementary and secondary students, thereby giving every school district a funding increase.

The legislature intends to require a comprehensive study of funding and services for students with disabilities completed prior to the 2025 legislative session to understand if the state is appropriately identifying students with disabilities, identify funding and service gaps, and ensure that funding provided by the state to school districts, charter schools, and other entities for services are being used to meet the needs of students with disabilities.

Sec. 2. RCW 28A.150.390 and 2020 c 90 s 3 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and 28A.150.415.

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages three and four and those five year olds not yet enrolled in kindergarten who are eligible for and receiving special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15;

(b)(i) Subject to the limitation in (b)(ii) of this subsection (2), a district's annual average enrollment of resident students who are eligible for and receiving special education, excluding students ages three and four and those five year olds not yet enrolled in kindergarten, multiplied by the district's base allocation per full-time equivalent student, multiplied by the special education cost multiplier rate of:

~~(A) ((In the 2019-20 school year, 0.995 for students eligible for and receiving special education.~~

~~(B) Beginning in the 2020-21 school year, either:~~

~~(I) 1.0075 for)) For students eligible for and receiving special education and reported to be in the general education setting for ((eighty)) 80 percent or more of the school day(, or~~
~~(II) 0.995 for):~~

(I) In the 2023-24 school year, 1.035;

(II) In the 2024-25 school year, 1.04;

(III) In the 2025-26 school year, 1.043;

(IV) Beginning in the 2026-27 school year, 1.059; or

(B) For students eligible for and receiving special education and reported to be in the general education setting for less than ((eighty)) 80 percent of the school day:

(I) In the 2023-24 school year, 1.02;

(II) In the 2024-25 school year, 1.025;

(III) In the 2025-26 school year, 1.028;

(IV) Beginning in the 2026-27 school year, 1.043.

(ii) ~~((If))~~ Through the 2026-27 school year, if the enrollment percent exceeds ((thirteen and five-tenths percent)) the funded enrollment limit, the excess cost allocation calculated under (b)(i) of this subsection must be adjusted by multiplying the allocation by ((thirteen and five-tenths percent)) the funded enrollment limit divided by the enrollment percent.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident annual average enrollment of students who are eligible for and receiving special education, excluding students ages three and four and those five year olds not yet enrolled in kindergarten and students enrolled in institutional

education programs, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment limit" means:

(i) Through the 2022-23 school year, 13.5 percent;

(ii) In the 2023-24 school year, 14 percent;

(iii) In the 2024-25 school year, 14.5 percent;

(iv) In the 2025-26 and 2026-27 school years, 15 percent;

(v) Beginning in the 2027-28 school year, all students eligible for and receiving special education must generate excess cost allocations under this section.

Sec. 3. RCW 28A.150.392 and 2019 c 387 s 2 are each amended to read as follows:

(1)(a) To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A.150.390.

(b) If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in any fiscal year, then the superintendent shall expend all available federal discretionary funds necessary to meet this need.

(2) Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall award additional funds for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas.

(b) In the determination of need, the committee shall consider additional available revenues from federal sources.

(c) Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(d) In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state revenues related to services for students eligible for special education and all federal revenues from federal impact aid, medicaid, and the individuals with disabilities education act-Part B and appropriate special projects. Awards associated with (e) and (f) of this subsection shall not exceed the total of a district's specific determination of need.

(e) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(f) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, which may include consideration of proximity to group homes,

military bases, and regional hospitals. Safety net awards under this subsection (2)(f) shall be adjusted to reflect amounts awarded under (e) of this subsection.

(g) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education served in residential schools as defined in RCW ((28A.190.020)) 28A.190.005, programs for juveniles under the department of corrections, and programs for juveniles operated by city and county jails to the extent they are providing a secondary program of education.

(h) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(i) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent of public instruction in accordance with chapter 318, Laws of 1999.

(j) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(3) The superintendent of public instruction shall adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. By December 1, 2018, the superintendent shall review and revise the rules to achieve full and complete implementation of the requirements of this subsection and subsection (4) of this section including revisions to rules that provide additional flexibility to access community impact awards. Before revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature. In adopting and revising the rules, the superintendent shall ensure the application process to access safety net funding is streamlined, timelines for submission are not in conflict, feedback to school districts is timely and provides sufficient information to allow school districts to understand how to correct any deficiencies in a safety net application, and that there is consistency between awards approved by school district and by application period. The office of the superintendent of public instruction shall also provide technical assistance to school districts in preparing and submitting special education safety net applications.

(4) On an annual basis, the superintendent shall survey districts regarding their satisfaction with the safety net process and consider feedback from districts to improve the safety net process. Each year by December 1st, the superintendent shall prepare and submit a report to the office of financial management and the appropriate policy and fiscal committees of the legislature that summarizes the survey results and those changes made to the safety net process as a result of the school district feedback.

(5) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff member from the office of the superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(6) Beginning in the ~~((2019-20))~~ 2023-24 school year, a high-need student is eligible for safety net awards from state funding under subsection (2)(e) and (g) of this section if the student's individualized education program costs exceed two and ~~((three))~~ two-tenths times the average per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the every student succeeds act of 2015.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.150 RCW to read as follows:

Beginning July 1, 2025:

(1) It is the policy of the state that for purposes of state funding allocations, students eligible for and receiving special education generate the full basic education allocation under RCW 28A.150.260 and, as a class, are to receive the benefits of this allocation for the entire school day, as defined in RCW 28A.150.203, whether the student is placed in the general education setting or another setting.

(2) The superintendent of public instruction must maintain a full cost method of excess cost accounting to account for expenditures beyond amounts provided through the special education funding formula under RCW 28A.150.390. This method of accounting must shift the following portions of a school district's general apportionment revenue for students eligible for and receiving special education to the school district's special education program for expenditure.

(a) A percentage of a school district's base allocation as defined in RCW 28A.150.390(3) for students eligible for and receiving special education based on their percentage of time served in a special education setting;

(b) To the extent that state special education expenditures in the previous year exceeded state funding provided for that year under RCW 28A.150.390, 28A.150.392, and methods for redirecting general apportionment revenue based on the students' percentage of time served in a special education setting, up to 50 percent of the school district's base allocation as defined in RCW 28A.150.390(3) for students eligible for and receiving special education combining portions under (a) of this subsection.

(3) Unless otherwise prohibited by law, nothing in this section prohibits school districts from using other funding and state allocations above the amounts provided under RCW 28A.150.390 and subsection (2) of this section to serve students eligible for and receiving special education.

(4) The legislature must review any findings and recommendations from the report and audit required under section 6 of this act and adjust formulas in this section as appropriate.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.155 RCW to read as follows:

(1) The superintendent of public instruction shall annually review data from local education agencies, including the percentage of students receiving special education services, to ensure there is not a disproportionate identification of students, as defined by the superintendent of public instruction in accordance with federal requirements of the individuals with disabilities education act, 20 U.S.C. Sec. 1400.

(2) The office of the superintendent of public instruction shall provide technical assistance to school districts experiencing issues related to disproportionality and will make available professional development opportunities statewide to support local education agencies, schools, and community partners in promoting inclusionary teaching practices within a multitiered system of supports framework to help safeguard against over-identification and other issues related to disproportionality.

NEW SECTION. **Sec. 6.** (1) The joint legislative audit and review committee and the state auditor must collaborate to conduct a performance audit of the state's system of providing special education services to students with disabilities. The joint legislative audit and review committee and the state auditor may divide responsibility for the work and reporting required in this section as appropriate, and contract with qualified third-party researchers or higher education institutions to perform any aspect of the report and audit. The report and audit must address:

(a) The prevalence of disabilities and whether the provisions and funding for evaluating students and providing services reflects the prevalence of disabilities, including whether any populations are disparately underevaluated or underserved;

(b) The degree to which changes in funding formulas intended to encourage increased inclusion are successful and whether the state and school districts are utilizing best practices to improve inclusion;

(c) Whether the changes in evaluation timelines or increases in the funded enrollment limit have resulted in funding for students who do not have disabilities or in excess of districts' costs to serve students with disabilities;

(d) Whether districts are appropriately accounting for and reporting use of basic education allocations for students with disabilities, including if statutory expectations for use of funds are being met;

(e) The amount of funding from levies or other local sources that school districts continue to utilize under current accounting methodologies in order to meet obligations to provide free and appropriate public education to students with disabilities, the degree to which funding shortfalls will continue following planned increases in multipliers, proposed changes to accounting methodologies, and the elimination of a cap on the percent of students for whom the

state provides funding; and, options for additional changes to funding formulas to eliminate shortfalls in state funding for special education; and

(f) How the state may improve recruitment and retention of certificated educators, instructional aides, or paraeducators and professionals serving students with disabilities.

(2) To develop the appropriate scope, define study questions, and select one or more contractors to complete the performance audit and report, the joint legislative audit and review committee and state auditor shall consult with the office of the superintendent of public instruction, the office of the education ombuds, organizations representing and serving students with disabilities, the Washington state special education advisory council, and labor organizations representing educators providing educational services to students with disabilities in developing study questions and choosing appropriate contractors. To address the study questions, the joint legislative audit and review committee and the state auditor may conduct the audit at a sample of school districts as needed.

(3) The performance audit required by this section must include charter schools to the same extent as school districts.

(4) Upon request, the office of financial management and any state or local agency must provide the joint legislative audit and review committee and the state auditor with education records necessary to conduct the performance audit required under this section. The joint legislative audit and review committee and the state auditor shall be considered authorized representatives of relevant state education authorities, including the superintendent of public instruction and the department of children, youth, and families, for the purpose of accessing records for this evaluation. The office of financial management and any state or local agency must provide records within four months from the date of an initial request. The office of financial management or agencies contributing data to the education research and data center must notify the joint legislative audit and review committee and the state auditor's office in writing if they determine a request does not comply with the federal educational rights and privacy act, no later than 21 days after the initial request.

(5) Prior to the 2024 legislative session, the joint legislative audit and review committee and the state auditor must identify a lead agency for each element of the report and audit defined in subsection (1)(a) through (f) of this section and any aspects of the study that are being conducted by contractors. These designations must be provided to the governor and the committees of the legislature with jurisdiction over fiscal matters and special education by December 31, 2023.

(6) The joint legislative audit and review committee and the state auditor must, in accordance with RCW 43.01.036, report the study's findings and recommendations to the governor and the committees of the legislature with jurisdiction over fiscal

matters and special education by November 30, 2024.

(7) This section expires August 1, 2025.

NEW SECTION. **Sec. 7.** Sections 2 and 3 of this act take effect September 1, 2023.

NEW SECTION. **Sec. 8.** Section 4 of this act takes effect July 1, 2025.

NEW SECTION. **Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

E2SSB 5315 Prime Sponsor, Ways & Means: Concerning nonpublic agencies operating special education programs for students with disabilities. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq. establishes duties for the state education agency, which is the office of the superintendent of public instruction in Washington, with respect to students with disabilities who are placed in a private school or facility by a school district or other public agency as a means of providing special education and related services.

(b) Since 2006, the federal implementing regulations of the federal individuals with disabilities education act have required that the office of the superintendent of public instruction ensure that a student with a disability who is placed in a private school or facility by a school district or other public agency:

(i) Is provided special education and related services in conformance with an individualized education program that meets the requirements of federal law and at no cost to the student's parents;

(ii) Is provided an education that meets the standards that apply to education provided by a school district or other public agency; and

(iii) Has all of the rights of a student with a disability who is served by a school district or other public agency.

(c) Since 2006, the federal implementing regulations of the federal individuals with disabilities education act have required that the office of the superintendent of public instruction, in implementing the requirements described in (b) of this subsection (1):

(i) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(ii) Disseminate copies of applicable standards to each private school and facility to which a school district or other public agency placed a student with a disability; and

(iii) Provide an opportunity for those private schools and facilities to participate in the development and revision of state standards that apply to them.

(2) The legislature acknowledges that it has not codified the requirements described in subsection (1) of this section into state statute. Therefore, the legislature intends to codify the duty and authority of the superintendent of public instruction to establish standards for approving, monitoring, and investigating education centers, which are private schools and facilities that contract with school districts to provide special education and related services to students with disabilities placed in the education center by a school district. The legislature also intends to codify the requirement that these standards must ensure that any students with disabilities placed in an education center by a school district have the same rights, protections, and access to special education and related services that they would have if served by a school district.

Sec. 2. RCW 28A.155.090 and 2007 c 115 s 11 are each amended to read as follows:

The superintendent of public instruction shall have the duty and authority, through the administrative section or unit for the education of children with disabling conditions, to:

(1) Assist school districts in the formation of programs to meet the needs of children with disabilities;

(2) Develop interdistrict cooperation programs for children with disabilities as authorized in RCW 28A.225.250;

(3) Provide, upon request, to parents or guardians of children with disabilities, information as to the special education programs for students with disabilities offered within the state;

(4) Assist, upon request, the parent or guardian of any child with disabilities in the placement of any child with disabilities who is eligible for but not receiving special educational services for children with disabilities;

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to students with disabilities;

(6) Establish standards for approving, monitoring, and investigating education centers, as defined in RCW 28A.205.010, that contract with school districts under RCW 28A.155.060 to provide special education and related services to children with

disabilities placed in the education center by a school district. The standards must ensure that any children with disabilities placed in the education center by a school district have the same rights, protections, and access to special education and related services that they would have if served by a school district;

(7) Consistent with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160, and part B of the federal individuals with disabilities education improvement act, administer administrative hearings and other procedures to ensure procedural safeguards of children with disabilities; and

~~((7))~~ (8) Promulgate such rules as are necessary to implement part B of the federal individuals with disabilities education improvement act or other federal law providing for special education services for children with disabilities and the several provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160 and to ensure appropriate access to and participation in the general education curriculum and participation in statewide assessments for all students with disabilities.

Sec. 3. RCW 28A.205.010 and 2006 c 263 s 408 are each amended to read as follows:

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

(1) ~~((As used in this chapter, unless the context thereof shall clearly indicate to the contrary:))~~

"Education center" means ~~((any private school operated on a profit or nonprofit basis which))~~ a private in-state school or facility operated on a profit or nonprofit basis, or any out-of-state school or facility, that contracts with a school district to provide special education and related services to students with disabilities placed in the education center by the school district and that does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation~~((-))~~;

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program~~((-))~~; and

(c) Conducts courses of instruction by ~~((professionally trained personnel certificated by the Washington professional educator standards board according to rules adopted for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an education center shall be deemed equal to a year's teaching experience in a common or private school))~~ licensed teachers.

~~(2) ((For purposes of this chapter, basic academic skills shall)) "Basic academic skills" must include the study of mathematics, speech, language, reading and composition, science, history, literature, and political science or civics (it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting or the approval of private schools under RCW 28A.305.130.~~

~~(3) The superintendent of public instruction shall certify an education center only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) of this section and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the superintendent finds that a center fails to provide adequate instruction in basic academic skills. No education center certified by the superintendent of public instruction pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050).~~

NEW SECTION. Sec. 4. A new section is added to chapter 28A.205 RCW to read as follows:

(1) The office of the superintendent of public instruction may approve an applicant as an education center only after a determination that:

(a) The applicant meets the definition of an education center under RCW 28A.205.010; and

(b) The students of the applicant have made educational gains that are a direct result of the applicant's educational program, where the determination is based on the actual educational performance of the students, after considering each student's background.

(2) The office of the superintendent of public instruction may suspend, revoke, or refuse to renew approval of an education center if the education center fails to provide adequate instruction in basic academic skills, fails to adhere to federal laws, especially civil rights laws, fails to comply with health and safety requirements, or fails to comply with provisions of its contract with a school district.

(3) The office of the superintendent of public instruction must prohibit approved education centers from charging tuition or fees to students placed in the education center by a school district.

(4) The office of the superintendent of public instruction must encourage school districts to cooperate with education centers.

(5) An education center approved by the office of the superintendent of public instruction under this section is not a common school under RCW 28A.150.020.

(6) The approval of an education center that is a private school in Washington approved by the state board of education under chapter 28A.195 RCW is limited to the program of special education and related services provided to students with disabilities placed in the education center by the school district.

Sec. 5. RCW 28A.155.060 and 2007 c 115 s 6 are each amended to read as follows:

(1) For the purpose of carrying out the provisions of RCW 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with ((agencies approved by the superintendent of public instruction for operating special education programs for students with disabilities. Approval standards for such agencies shall conform substantially with those of special education programs in the common schools)) education centers approved under subsection (2) of this section to provide special education and related services to students with disabilities placed in the education center by the school district.

(2)(a) The office of the superintendent of public instruction must create an application process to approve education centers to contract with school districts to provide special education and related services to students with disabilities placed in the education center by a school district. Education centers may be approved for a period of up to three years.

(b) To qualify for approval, an education center must, at a minimum, meet the following requirements:

(i) Acknowledge that it can meet all contract elements established in subsection (3)(a) of this section;

(ii)(A) For an education center operating as a school, either obtain approval by the state board of education under chapter 28A.195 RCW to operate as a private school in Washington or obtain approval by the state education agency of the state in which the education center is located; and (B) for education centers that operate a program of education within a nonschool facility, comply with facility licensing requirements of the state in which the education center is located;

(iii) Employ or contract with: At least one licensed teacher with a special education endorsement; other licensed teachers; and related services staff who meet the licensing requirements for their profession;

(iv) Meet applicable fire codes of the local or state fire marshal and applicable health and safety standards;

(v) Demonstrate through audits that it is financially stable and has accounting systems that allow for separation of school district funds, including financial safeguards in place to track revenues and expenditures associated with contracted placements to ensure that funds are used to provide special education services to students;

(vi) Demonstrate that it has procedures in place that address staff hiring and contracting, including checking personal and

professional references for employees, conducting criminal background checks in accordance with RCW 28A.400.303, and scheduling regular staff evaluations that address staff competencies;

(vii) Demonstrate that staff of the education center are regularly trained on the following topics:

(A) Constitutional and civil rights of children in schools;

(B) Child and adolescent development;

(C) Trauma-informed approaches to working with youth;

(D) Recognizing and responding to youth mental health issues;

(E) Educational rights of students with disabilities, the relationship of disability to behavior, and best practices for interacting with students with disabilities;

(F) Cultural competency, diversity, equity, and inclusion, including best practices for interacting with students from particular backgrounds, including English learner, LGBTQ, immigrant, female, and nonbinary students. The terms "cultural competency," "diversity," "equity," and "inclusion" have the same meanings as in RCW 28A.415.443;

(G) De-escalation techniques when working with youth or groups of youth;

(H) Student isolation and restraint requirements under RCW 28A.600.485;

(I) The federal family educational rights and privacy act (Title 20 U.S.C. Sec. 1232g) requirements including limits on access to and dissemination of student records for noneducational purposes; and

(J) Restorative justice principles and practices; and

(viii) Maintain a policy of nondiscrimination and provide procedural safeguards for students eligible for special education services and their families.

(c) Before approving an application under this subsection, the office of the superintendent of public instruction must conduct an on-site visit to ensure that an education center's facilities, staffing levels, and procedural safeguards are sufficient to provide a safe and appropriate learning environment for students with disabilities placed in the education center by a school district.

(d) The office of the superintendent of public instruction may suspend, revoke, or refuse to renew its approval of an education center if the education center:

(i) Fails to maintain approval standards or fails to comply with all school district contract elements established in subsection (3)(a) of this section;

(ii) Violates the rights of students with disabilities placed in the education center by a school district; or

(iii) Refuses to implement any corrective actions ordered by the office of the superintendent of public instruction.

(e) The office of the superintendent of public instruction must use the data collected to produce the report required under section 7 of this act to identify issues of noncompliance with approval standards and contract elements established in subsection (3)(a) of this section.

(f) The office of the superintendent of public instruction must notify the state

board of education if any education center that is also a private school approved by the state board of education under chapter 28A.195 RCW is investigated for noncompliance, is directed to complete corrective action, or fails to maintain approval under this subsection. The state board of education must notify the office of the superintendent of public instruction of any unresolved concerns, deficiencies, or deviations related to an education center that is also a private school approved by the state board of education under chapter 28A.195 RCW.

(g)(i) The office of the superintendent of public instruction must develop and publish on its website a complaint process for individuals to report noncompliance or violations of student rights at education centers.

(ii) The office of the superintendent of public instruction must use the complaint process to identify and address patterns of misconduct at education centers, including issuing corrective action or revoking approval under this subsection.

(3)(a) A school district that chooses to contract with an education center as authorized under subsection (1) of this section must enter into a written contract with the education center to establish the responsibilities of the school district and the education center and set forth the rights of students with disabilities placed in the education center by the school district as a means of providing special education and related services. The contract must include, at a minimum, the following elements:

(i) The names of the parties involved and the name of the student or students with disabilities placed in the education center by the school district;

(ii) The locations and settings of the services to be provided;

(iii) A description of the services to be provided, including access to state learning standards adopted under RCW 28A.655.070;

(iv) The total contract cost and applicable charge and reimbursement systems, including billing and payment procedures;

(v) Acknowledgment that the education center is responsible for full reimbursement to the school district of any overpayments determined to have been made by the school district;

(vi) Acknowledgment that the education center has a list of each qualified staff member providing special education and related services and a copy of the license or credential that qualifies each staff member to provide those services;

(vii) Acknowledgment that the school district and education center have clearly established their respective responsibilities and processes for data collection and reporting for students;

(viii) Acknowledgment that the education center must comply with student isolation and restraint requirements under RCW 28A.600.485;

(ix) Acknowledgment that the education center must notify the school district and the office of the superintendent of public instruction of any program, staffing, or facility changes that may affect the

agency's ability to provide contracted services;

(x) Acknowledgment that the education center must comply with all relevant Washington state and federal laws that are applicable to the school district; and

(xi) Acknowledgment that the school district must provide the office of the superintendent of public instruction with the opportunity to review the contract and related documentation upon request.

(b) A school district contracting with an education center must conduct an annual on-site visit to ensure that an education center's facilities, staffing levels, and procedural safeguards are sufficient to provide a safe and appropriate learning environment and meet the unique needs of the students with disabilities placed in the education center by the school district.

(c) A school district contracting with an education center must remain responsible for ensuring that the students with disabilities placed in the education center by the school district are:

(i) Provided a free appropriate public education in accordance with the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq. and this chapter;

(ii) Provided with special education and related services at no cost to the student's parents and in conformance with an individualized education program as required by law, including evaluations and individualized education program team meetings that meet all applicable requirements;

(iii) Provided with an opportunity to participate in Washington state and school district assessments and an opportunity to fulfill the requirements to receive a Washington state diploma; and

(iv) Provided at least the minimum instructional hours and days required under RCW 28A.150.220.

(d) A school district contracting with an education center must report to the office of the superintendent of public instruction and the office of the state auditor any concerns the school district has about overbilling by an education center.

(e) A school district must provide the following documents to the parents or guardians of the student being served by an education center:

(i) A summary of the school district and education center's responsibilities and processes for reporting incidents of student isolation and restraint under RCW 28A.600.485; and

(ii) A copy of the complaint process published under subsection (2)(g) of this section.

(4) For the purpose of this section, "education center" means an education center, as defined in RCW 28A.205.010, approved by the office of the superintendent of public instruction under subsection (2) of this section.

Sec. 6. RCW 28A.155.210 and 2013 c 202 s 3 are each amended to read as follows:

A ((school that is required to develop an)) student's individualized education

program ((as required by federal law)) must include ((within the plan)) procedures for notification of a parent or guardian regarding the use of restraint or isolation under RCW 28A.600.485. If a student is served by an education center under RCW 28A.155.060, the student's individualized education program must also specify any additional procedures required to ensure the education center fully complies with RCW 28A.600.485.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.155 RCW to read as follows:

(1) Beginning December 1, 2023, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction must annually submit a report to the education committees of the legislature regarding student placements at education centers under RCW 28A.155.060. A summary of the report, including a link to the full report content, must also be posted on the office of the superintendent of public instruction's website. The report must include:

(a) The academic progress of students receiving special education services from education centers, using the results of the two most recent state assessments;

(b) The graduation rates of students who have received special education services from education centers;

(c) The rate at which students receiving special education services from education centers return to their resident school districts;

(d) Data on student restraint and isolation incidents, discipline, and attendance at education centers; and

(e) Any corrective action or change in an education center's approval status, as ordered by the office of the superintendent of public instruction.

(2) The data published under subsection (1) of this section must be disaggregated by education center when it is possible to do so without disclosing, directly or indirectly, a student's personally identifiable information as protected under the federal family educational rights and privacy act (Title 20 U.S.C. Sec. 1232g).

NEW SECTION. Sec. 8. The following acts or parts of acts are each repealed:

(1) RCW 28A.205.020 (Common school dropouts—Reimbursement) and 1999 c 348 s 3, 1997 c 265 s 7, 1993 c 211 s 2, 1990 c 33 s 181, 1979 ex.s. c 174 s 1, & 1977 ex.s. c 341 s 2;

(2) RCW 28A.205.030 (Reentry of prior dropouts into common schools, rules—Eligibility for test to earn a high school equivalency certificate) and 2013 c 39 s 6;

(3) RCW 28A.205.040 (Fees—Rules—Priority for payment—Review of records) and 2013 c 39 s 7, 2006 c 263 s 412, 1999 c 348 s 4, 1990 c 33 s 183, 1979 ex.s. c 174 s 2, & 1977 ex.s. c 341 s 4;

(4) RCW 28A.205.070 (Allocation of funds—Criteria—Duties of superintendent) and 2006 c 263 s 409, 1993 c 211 s 6, 1990 c 33 s 185, & 1985 c 434 s 3;

(5) RCW 28A.205.080 (Legislative findings—Distribution of funds—Cooperation with school districts) and 1997 c 265 s 8, 1993 c 211 s 7, 1990 c 33 s 186, & 1987 c 518 s 220; and

(6) RCW 28A.205.090 (Inclusion of education centers program in biennial budget request—Quarterly plans—Funds—Payment) and 1993 c 211 s 8, 1990 c 33 s 187, & 1985 c 434 s 4.

NEW SECTION. Sec. 9. 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.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

SB 5316 Prime Sponsor, Senator Wilson, C.:
Concerning background check and licensing fees for programs administered by the department of children, youth, and families.
Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.43.837 and 2022 c 297 s 954 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, in order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access, the secretary of the department of social and health services and the secretary of the department of children, youth, and families may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and:

(a) Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;

(b) Is an individual sixteen years of age or older who: (i) Is not under the placement and care authority of the department of children, youth, and families; and (ii) resides in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department of children, youth, and families

to provide services to children under RCW 74.15.030;

(c) Is an individual who is authorized by the department of social and health services to provide services to people with developmental disabilities under RCW 74.15.030; or

(d) Is an applicant or service provider providing in-home services funded by:

(i) Medicaid personal care under RCW 74.09.520;

(ii) Community options program entry system waiver services under RCW 74.39A.030;

(iii) Chore services under RCW 74.39A.110; or

(iv) Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department of social and health services.

(2) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject to background checks under RCW 74.39A.056.

(3) To satisfy the shared background check requirements provided for in RCW 43.216.270 and 43.20A.710, the department of children, youth, and families and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may share the federal background check results with any other state agency or person.

(4) The secretary of the department of children, youth, and families shall require a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law. Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department of children, youth, and families for ~~((applicant))~~ foster care and child care applicants and service providers ~~((providing foster care as required in RCW 74.15.030))~~.

(5) Any secure facility operated by the department of social and health services or the department of children, youth, and families under chapter 71.09 RCW shall require applicants and service providers to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.

(6) Service providers and service provider applicants, except for those long-term care workers exempted in subsection (2) of this section, who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:

(a) A fingerprint-based background check is pending; and

(b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(7) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the applicable department for applicants or service providers providing:

(a) Services to people with a developmental disability under RCW 74.15.030;

(b) In-home services funded by medicaid personal care under RCW 74.09.520;

(c) Community options program entry system waiver services under RCW 74.39A.030;

(d) Chore services under RCW 74.39A.110;

(e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department of social and health services or the department of children, youth, and families; and

(f) Services in, or to residents of, a secure facility under RCW 71.09.115 (~~and~~

~~(g) For fiscal year 2023, applicants for child care and early learning services to children under RCW 43.216.270).~~

~~(8) ((Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.~~

~~(9) Department of children, youth, and families service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.~~

~~(10))~~ The department of social and health services and the department of children, youth, and families shall develop rules identifying the financial responsibility of service providers, applicants, and the department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a Washington state patrol or federal bureau of investigation fingerprint-based background check.

~~((11))~~ (9) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department of social and health services, department of children, youth, and families, or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual who will or may have unsupervised access because of the nature of the work or services he or she provides. "Applicant" includes but is not limited to any individual who will or may have unsupervised access and is:

(i) Applying for a license or certification from the department of social and health services or the department of children, youth, and families;

(ii) Seeking a contract with the department of social and health services, the department of children, youth, and families, or a service provider;

(iii) Applying for employment, promotion, reallocation, or transfer;

(iv) An individual that a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered; or

(v) A department of social and health services or department of children, youth, and families applicant who will or may work in a department-covered position.

(b) "Authorized" means the department of social and health services or the department of children, youth, and families grants an applicant, home, or facility permission to:

(i) Conduct licensing, certification, or contracting activities;

(ii) Have unsupervised access to vulnerable adults, juveniles, and children;

(iii) Receive payments from a department of social and health services or department of children, youth, and families program; or

(iv) Work or serve in a department of social and health services or department of children, youth, and families-covered position.

(c) "Secretary" means the secretary of the department of social and health services.

(d) "Secure facility" has the meaning provided in RCW 71.09.020.

(e) "Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department of social and health services or the department of children, youth, and families to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered.

Sec. 2. RCW 43.216.270 and 2022 c 297 s 960 are each amended to read as follows:

(1)(a) In determining whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children, the department may consider the history of past involvement of child protective services or law enforcement agencies with the individual for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of a child. No report of child abuse or neglect that has been destroyed or expunged under RCW

26.44.031 may be used for such purposes. No unfounded or inconclusive allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter.

(b) The department may not deny or delay a license to provide child care and early learning services under this chapter to an individual solely because of a founded finding of physical abuse or negligent treatment or maltreatment involving the individual revealed in the background check process or solely because the individual's child was found by a court to be dependent as a result of a finding that the individual abused or neglected their child pursuant to RCW 13.34.030(6)(b) when that founded finding or court finding is accompanied by a certificate of parental improvement as defined in chapter 74.13 RCW related to the same incident.

(2) In order to determine the suitability of individuals newly applying for an agency license, new licensees, their new employees, and other persons who newly have unsupervised access to children in child care, shall be fingerprinted.

(a) The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history record check.

(b) ~~((i))~~ All individuals applying for first-time agency licenses, all new employees, and other persons who have not been previously qualified by the department to have unsupervised access to children in child care must be fingerprinted and obtain a criminal history record check pursuant to this section.

~~((ii) Except during fiscal year 2023, persons required to be fingerprinted and obtain a criminal history record check pursuant to this section must pay for the cost of this check as follows: The fee established by the Washington state patrol for the criminal background history check, including the cost of obtaining the fingerprints; and a fee paid to the department for the cost of administering the individual-based/portable background check clearance registry. The fee paid to the department must be deposited into the individual-based/portable background check clearance account established in RCW 43.216.273. The licensee may, but need not, pay these costs on behalf of a prospective employee or reimburse the prospective employee for these costs. The licensee and the prospective employee may share these costs.)~~

(c) The secretary shall use the fingerprint criminal history record check information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children.

(d) Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose.

(e) No later than July 1, 2013, all agency licensees holding licenses prior to July 1, 2012, persons who were employees

before July 1, 2012, and persons who have been qualified by the department before July 1, 2012, to have unsupervised access to children in child care, must submit a new background application to the department. ~~((The department must require persons submitting a new background application pursuant to this subsection (2)(e) to pay a fee to the department for the cost of administering the individual-based/portable background check clearance registry. This fee must be paid into the individual-based/portable background check clearance account established in RCW 43.216.273. The licensee may, but need not, pay these costs on behalf of a prospective employee or reimburse the prospective employee for these costs. The licensee and the prospective employee may share these costs.))~~

(f) The department shall issue a background check clearance card or certificate to the applicant if after the completion of a background check the department concludes the applicant is qualified for unsupervised access to children in child care. The background check clearance card or certificate is valid for ~~((three))~~ five years from the date of issuance. A valid card or certificate must be accepted by a potential employer as proof that the applicant has successfully completed a background check as required under this chapter. For purposes of renewal of the background clearance card or certificate, all agency licensees holding a license, persons who are employees, and persons who have been previously qualified by the department, must submit a new background application to the department on a date to be determined by the department. ~~((Except during fiscal year 2023, fee requirements applicable to this section also apply to background clearance renewal applications.))~~

(g) The original applicant for an agency license, licensees, their employees, and other persons who have unsupervised access to children in child care shall submit a new background check application to the department, on a form and by a date as determined by the department.

(h) ~~((The payment requirements applicable to (a) through (g) of this subsection do not apply to persons who:~~

~~(i) Provide regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours;~~

~~(ii) Receive child care subsidies; and~~

~~(iii) Are exempt from licensing under this chapter.~~

~~((i))~~ The applicant and agency shall maintain on-site for inspection a copy of the background check clearance card or certificate.

~~((j))~~ (i) Individuals who have been issued a background check clearance card or certificate shall report nonconviction and conviction information to the department within twenty-four hours of the event constituting the nonconviction or conviction information.

~~((*)~~) (j) The department shall investigate and conduct a redetermination of an applicant's or licensee's background clearance if the department receives a complaint or information from individuals, a law enforcement agency, or other federal, state, or local government agency. Subject to the requirements contained in RCW 43.216.325 and 43.216.327 and based on a determination that an individual lacks the appropriate character, suitability, or competence to provide child care or early learning services to children, the department may: (i) Invalidate the background card or certificate; or (ii) suspend, modify, or revoke any license authorized by this chapter.

(3) To satisfy the shared background check requirements of the department of children, youth, and families, the office of the superintendent of public instruction, and the department of social and health services, each department shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow these departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. These departments may not share the federal background check results with any other state agency or person.

(4) Individuals who have completed a fingerprint background check as required by the office of the superintendent of public instruction, consistent with RCW 28A.400.303, and have been continuously employed by the same school district or educational service district, can meet the requirements in subsection (2) of this section by providing a true and accurate copy of their Washington state patrol and federal bureau of investigation background check report results to the department or if the school district or the educational service district provides an affidavit to the department that the individual has been authorized to work by the school district or educational service district after completing a record check consistent with RCW 28A.400.303. The department may require that additional background checks be completed that do not require additional fingerprinting ~~((and, except during fiscal year 2023, may charge a fee for these additional background checks))~~.

Sec. 3. RCW 43.216.271 and 2021 c 304 s 12 are each amended to read as follows:

~~((Subject to appropriation, the))~~ The department shall maintain an individual-based or portable background check clearance registry. Any individual seeking a child care license or employment in any child care facility or outdoor nature-based child care program licensed or regulated under current law shall submit a background application on a form prescribed by the department in rule.

NEW SECTION. Sec. 4. The following acts or parts of acts are each repealed:

(1) RCW 43.216.272 (Fee for developing and administering individual-based/portable background check clearance registry) and

2017 3rd sp.s. c 6 s 208 & 2011 c 295 s 4; and

(2) RCW 43.216.273 (Individual-based/portable background check clearance account) and 2017 3rd sp.s. c 6 s 209 & 2011 c 295 s 5.

NEW SECTION. Sec. 5. 2021 c 304 s 34 (uncodified) is repealed.

NEW SECTION. Sec. 6. Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Rude; Ryu; Senn; Simmons; Springer; Steele; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Corry, Assistant Ranking Minority Member; Dye; Harris; Sandlin; and Schmick.

Referred to Committee on Rules for second reading

April 4, 2023

SSB 5318

Prime Sponsor, Human Services: Limiting estate recovery. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Chambers, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Sandlin; Schmick; and Steele.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Corry, Assistant Ranking Minority Member; Harris; and Rude.

Referred to Committee on Rules for second reading

April 3, 2023

ESB 5341

Prime Sponsor, Senator Muzzall: Creating a location-based branding and promotion program for Washington food and agricultural products. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary,

Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2023

SSB 5353 Prime Sponsor, Agriculture, Water, Natural Resources & Parks: Concerning the voluntary stewardship program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

ESB 5355 Prime Sponsor, Senator Wilson, C.: Mandating instruction on sex trafficking prevention and identification for students in grades seven through 12. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Education. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 1, 2023

SSB 5358 Prime Sponsor, State Government & Elections: Expanding veterans' services and programs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Steele and Tharinger.

Referred to Committee on Rules for second reading

April 3, 2023

E2SSB 5367 Prime Sponsor, Ways & Means: Concerning the regulation of products containing THC. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Regulated Substances & Gaming. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking

Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

SB 5369 Prime Sponsor, Senator Billig: Reassessing standards for polychlorinated biphenyls in consumer products. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that polychlorinated biphenyls, or PCBs, are a hazardous chemical class that have been identified as carcinogenic, a developmental toxicant, toxic to aquatic organisms, and persistent and bioaccumulative. According to the United States environmental protection agency, PCBs are probable human carcinogens and may have serious and potential effects on the immune system, reproductive system, nervous system, and endocrine system.

(2) Humans and other organisms can be exposed to PCBs in a number of ways. PCBs can be released into the environment from hazardous waste sites, illegal dumping, or disposal of PCB wastes or PCB-containing products in areas or landfills not designed to handle hazardous waste, leaks, or releases from electrical transformers containing PCBs, and wastewater discharges. Once PCBs are released, the chemicals do not readily break down in the environment and can cycle for long periods between air, water, and soil. PCBs can accumulate in leaves and above-ground parts of plants and food crops, and they are also taken up into the bodies of small organisms and fish, resulting in potential exposure for people and organisms that ingest the fish.

(3) In 1979, the United States banned the production of PCBs under the toxic substances control act. However, the United States environmental protection agency's regulations implementing the toxic substances control act for PCBs allow some inadvertent generation of PCBs to occur in excluded manufacturing processes. These manufacturing by-product PCBs have been identified in wastewater, sediments, and air in numerous locations and have been positively identified in the testing of new products.

(4) The legislature finds that the state has done much to address PCB contamination, including cleanup, permitting, stormwater management, and fish advisories. In addition, the United States environmental protection agency, Washington state, and the Spokane tribe of Indians have established PCB water quality standards to protect human health and the environment. These standards are critical for addressing release and

exposure from legacy and nonlegacy PCBs. However, the standards cannot be achieved with currently available water treatment technology if the waste stream continues to include new sources of PCBs allowable under the toxic substances control act at levels measured in products such as paints, inks, and pigments that are billions of times higher than applicable water quality standards. While the United States environmental protection agency has restored a human health criteria standard of seven parts per quadrillion in Washington waters, the toxic substances control act limit for PCBs in products is an annual average of 25 parts per million, with a maximum 50 parts per million adjusted total PCBs. Therefore, the legislature finds that nonlegacy PCB contamination may most effectively be managed upstream at the product and process source as opposed to downstream facilities at the end of the product life cycle. The toxic substances control act standard for inadvertent PCBs does not reflect current science on limits needed to protect human health and the environment and is overdue for revision.

(5) While previous industry analysis of toxic substances control act rule making has asserted negative impacts and infeasibility in disallowing by-product PCBs, the legislature finds that safer, feasible, and available alternatives to PCB-containing paints and printing inks now exist, as determined by the department in its June 2022 *Safer Products for Washington* report. Moreover, since safer and available products and processes to produce paints and printing inks do exist, the legislature finds that use of manufacturing processes resulting in products with PCB by-products is not inadvertent, but intentional, and constitutes a use of the chemical within the product.

(6) Therefore, the legislature intends to direct the department to petition the United States environmental protection agency to reassess its PCB regulations under the toxic substances control act and to prohibit the use of chlorine-based pigment manufacturing processes, which result in the generation of PCBs.

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

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

(2) "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a product or is an importer or domestic distributor of a product sold or offered for sale in or into the state.

(3) "Paint and printing ink" includes, but is not limited to, building paint for indoor and outdoor use, spray paint, children's paint, road paint, and printing inks used in paper and packaging.

(4) "PCBs" or "polychlorinated biphenyls" means chemical forms that consist of two benzene rings joined together and containing

one to 10 chlorine atoms attached to the benzene rings.

(5) "Retail establishment" includes any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides merchandise, goods, or materials directly to a customer.

NEW SECTION. Sec. 3. (1) The department must petition the United States environmental protection agency to reassess its regulations on excluded manufacturing processes from prohibitions on manufacturing, processing, distribution in commerce, and use of PCBs and PCB items under 40 C.F.R. Sec. 761.3 for the purpose of eliminating or reducing the presence of PCBs in consumer products.

(2) In petitioning the United States environmental protection agency, the department must include legislative findings under this chapter and information on:

(a) Health effects of PCBs;

(b) Release and exposure of PCBs including, but not limited to, concentrations of PCBs measured in consumer products and in state waters, soils, and fish tissue;

(c) Safer alternatives for consumer products that contain PCBs, including the availability and feasibility of alternatives; and

(d) Other relevant data or findings as determined by the department.

(3) The department is not required to generate new data and may use previously compiled data and findings developed in the performance of duties under this chapter.

(4) The department may consult with the department of health and other relevant state agencies in developing the petition under this section.

(5) To the extent practicable, the department must seek completion of the petition review by January 1, 2025.

NEW SECTION. Sec. 4. (1) (a) (i) Beginning January 1, 2025, a manufacturer or wholesaler may not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this state any paint or printing ink that contains chlorine-based pigments.

(ii) Beginning January 1, 2026, a retail establishment may not knowingly sell or knowingly offer for sale for use in this state any paint or printing ink that contains chlorine-based pigments.

(b) (i) Beginning no later than 12 months after the adoption of rules under subsection (3) of this section, a manufacturer or wholesaler may not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this state a product identified under subsection (3) of this section.

(ii) Beginning no later than 24 months after the adoption of rules under subsection (3) of this section, a retail establishment may not knowingly sell or knowingly offer for sale any paint or printing ink that contains chlorine-based pigments.

(2) Upon a demand by the department, a person must demonstrate to the department that a product is in compliance with the requirements of subsection (1) of this

section through the submission to the department of:

(a) Testing data indicating that a chlorine-based manufacturing process was not used in the manufacture of the pigments contained in the paint, printing ink, or other product; or

(b) Information pertaining to pigment manufacturing processes demonstrating that chlorine was not used in the manufacturing of pigments contained in the paint, printing ink, or other product.

(3) The department may, by rule, identify products that, as a result of the inclusion of pigments in the product, contain PCBs that were inadvertently generated in the making of the pigment. The department may require products identified under this subsection to demonstrate the absence of chlorine-based pigments in a product in a manner consistent with subsection (2) of this section. The department must initiate a rule-making process under this subsection by October 1, 2023.

(4) The prohibitions in subsection (1) of this section do not apply to:

(a) Paint manufactured, reused, or recycled from paint collected under chapter 70A.515 RCW; or

(b) The sale of any previously owned products containing inadvertently generated PCBs made in casual or isolated sales as defined in RCW 82.04.040, or by a nonprofit organization.

(5)(a) The department may exempt a product or category of product from the prohibitions in subsection (1) of this section upon determining that a product or category of product is not capable of being manufactured in a manner that does not rely on the inclusion of chlorine-based pigments, and upon determining that allowing for the continued manufacture of product or category of product containing a chlorine-based pigment would not result in meaningful impacts to human health, the environment, or the ability of entities regulated under chapter 90.48 RCW to comply with water quality standards.

(b) The department may, in its discretion, extend the compliance deadline in subsection (1) of this section for a product or category of product for which a person annually demonstrates to the department by October 1st of a given year that the prohibition is not technically feasible for the person to comply with.

(6) The department may not administer or enforce the requirements of this section if:

(a) A court of competent jurisdiction determines that federal regulations preempt the requirements; or

(b) The requirement does not align with any regulation established by the United States environmental protection agency adopted after the effective date of this section.

(7) If the requirements of this section are determined by a court of competent jurisdiction to be preempted by federal regulations, the department is directed to adopt a rule, within 18 months of the determination of preemption, to establish a reporting requirement for the use of chlorine-based pigment manufacturing processes or the PCB content of any

combination of paints, printing inks, or products identified by the department under subsection (3) of this section.

NEW SECTION.

Sec. 5. (1) The department may adopt rules to implement, administer, and enforce the requirements of this chapter.

(2) The department may impose a civil penalty for a violation of any requirement of this chapter in an amount not to exceed \$5,000 for each violation in the case of a first offense. Persons who are repeat violators are subject to a civil penalty not to exceed \$10,000 for each repeat offense. The department must issue at least one notice of violation by certified mail prior to assessing a penalty and the department may only impose a penalty on a manufacturer or retail establishment that has not met the requirements of this chapter 60 days following the date the written notification of the violation was sent. The department may not collect a penalty from a retail establishment for a product that the retail establishment demonstrates to the department was in the possession of the retail establishment as of the effective date of the restrictions on manufacture, sale, and distribution under section 4(1) (a)(i) or (b)(i) of this act.

(3) Any penalty provided for in this section, and any order issued by the department under this chapter, may be appealed to the pollution control hearings board.

(4) All penalties collected under this chapter must be deposited in the model toxics control operating account created in RCW 70A.305.180.

Sec. 6. RCW 43.21B.110 and 2022 c 180 s 812 are each 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 70A.15 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, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 5 of this act, 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, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 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 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) 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 70A.205.145.

(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.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

(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 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, 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. 7.** Sections 1 through 5 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. **Sec. 8.** 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."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Steele; Stonier and Tharinger.

MINORITY recommendation: Without recommendation.
Signed by Representative Harris.

Referred to Committee on Rules for second reading

April 4, 2023

ESSB 5371

Prime Sponsor, Agriculture, Water, Natural Resources & Parks: Protecting southern resident orcas from vessels. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Agriculture and Natural Resources.

Strike everything after the enacting clause and insert the following:

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

(2) The legislature further finds that the state has a compelling interest in protecting the iconic southern resident orca from extinction by acting to implement recovery activities and adaptively managing the southern resident orca recovery effort

using best available science. Studies conducted by the national oceanic and atmospheric administration have indicated that southern resident orcas significantly reduced their foraging behavior when moving vessels were observed within 1,000 yards, and even up to 1,640 yards, of the whale.

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

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

(5) The legislature directed the department of fish and wildlife to produce a report on the effectiveness of regulations designed to address underwater noise and disturbance from commercial whale watching and recreational vessels. The legislature received the first of three mandated reports in November of 2022, and it contained an assessment of the most recent science demonstrating the negative impact of vessels on southern resident orca foraging behavior and foraging success.

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

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

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

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

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

point located within ~~((four hundred))~~ 1,000 yards of the whale;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(6) The department shall conduct outreach and education regarding regulations and best practices for recreational boating in waters inhabited by southern resident orcas, including best practices for avoiding or minimizing encounters closer than 1,000 yards from a southern resident orca consistent with the recommendations of the work group established in section 5 of this act. This may include the advancement and proliferation of tools for notifying boaters of southern resident orca presence, identifying orca ecotypes, and estimating distance on the water.~~

NEW SECTION. Sec. 3. A new section is added to chapter 77.15 RCW to read as follows:

(1) It is unlawful for an operator of a motorized commercial whale watching vessel licensed under RCW 77.65.615 to:

(a) Approach, in any manner, within 1,000 yards of a southern resident orca;

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

(c) Fail to disengage the transmission of a vessel that is within 400 yards of a southern resident orca; or

(d) Cause a vessel or other object to exceed a speed greater than seven knots over ground at any point located within 1,000 yards of a southern resident orca.

(2) If an operator of a motorized commercial whale watching vessel enters within 1,000 yards of a group of southern resident orcas, after taking reasonable measures to determine whether the whales were southern resident orcas, and then identifies the whales as southern resident orcas, the operator must:

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

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

(c) Accurately log the incident, including measures taken to determine whether the whales were southern resident orcas, and submit the log to the department within 24 hours of the incident.

NEW SECTION. Sec. 4. A new section is added to chapter 77.12 RCW to read as follows:

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

NEW SECTION. Sec. 5. (1) The department of fish and wildlife must convene a diverse work group including, but not limited to, representatives from nongovernmental organizations, recreational boaters, the commercial whale watching industry, commercial fishers, ports and marinas, relevant government entities, tribes, and the southern resident orca research community to inform the development of outreach and education strategies to implement RCW 77.15.740(4). A report summarizing the work of the work group and the department of fish and wildlife's outreach strategies must be included in the 2024 adaptive management report identified in RCW 77.65.620(5). The department of fish and wildlife must conduct intensive outreach and education in fiscal year 2024 and the first half of 2025 to implement the work group outreach recommendations.

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

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

(4) This section expires June 30, 2025.

Sec. 6. RCW 77.65.615 and 2021 c 284 s 1 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~((6))~~ (5) No individual may hold more than one commercial whale watching operator license. An individual who holds an operator license may be designated as an operator on an unlimited number of commercial whale watching business licenses.

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

(7) A paddle tour business license is required for businesses conducting paddle tours. The annual fee for a paddle tour

business license is \$200 in addition to the annual application fee of \$70.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) The residency and business requirements of RCW 77.65.040 (2) and (3) do not apply to Canadian individuals or

corporations applying for and holding Washington commercial whale watching licenses defined in this section.

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

Sec. 7. RCW 77.15.815 and 2019 c 291 s 4 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Senn; Simmons; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Couture; Sandlin; Schmick; and Steele.

MINORITY recommendation: Without recommendation. Signed by Representative Connors.

Referred to Committee on Rules for second reading

April 1, 2023

SSB 5386

Prime Sponsor, Housing: Reducing administrative complexity by increasing transparency of revenue flows for activities funded by document recording fees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 36.22 RCW to read as follows:

(1) A surcharge of \$183 per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. The following are exempt from this surcharge:

(a) Assignments or substitutions of previously recorded deeds of trust;

(b) Documents recording a birth, marriage, divorce, or death;

(c) Any recorded documents otherwise exempted from a recording fee or additional surcharges under state law;

(d) Marriage licenses issued by the county auditor; and

(e) Documents recording a federal, state, county, city, or water-sewer district, or wage lien or satisfaction of lien.

(2) Funds collected pursuant to this section must be distributed and used as follows:

(a) One percent of the total funds collected shall be retained by the county auditor for its fee collection activities;

(b) 30 percent of the total funds collected shall be retained by the county and used by the county as provided in subsection (3) of this section;

(c) 54.1 percent of the total funds collected shall be transmitted to the state treasurer to be deposited in the home security fund account created in RCW 43.185C.060 and shall be used by the department of commerce as provided in subsection (4) of this section;

(d) 13.1 percent of the total funds collected shall be transmitted to the state treasurer to be deposited in the affordable housing for all account created in RCW 43.185C.190 and shall be used by the department of commerce as provided in subsection (5) of this section;

(e) 1.8 percent of the total funds collected shall be transmitted to the state treasurer to be deposited in the landlord mitigation program account created in RCW 43.31.615 and shall be used by the department of commerce as provided in subsection (6) of this section.

(3) The county shall use their portion of the collected funds as follows:

(a) Up to 10 percent for the county's administration and local distribution of the funds collected from the surcharge in this section, and administrative costs related to the county's homeless housing plan;

(b) At least 75 percent will be retained and used by the county to accomplish the purposes of its local homeless housing plan pursuant to chapter 484, Laws of 2005. For each city in the county that elects as authorized in RCW 43.185C.080 to operate its own local homeless housing program, a percentage of the surcharge assessed under this subsection equal to the percentage of the city's local portion of the real estate excise tax collected by the county shall be transmitted at least quarterly to the city treasurer, without any deduction for county administrative costs, for use by the city for program costs which directly contribute to the goals of the city's local homeless housing plan; of the funds received by the city, it may use up to 10 percent for administrative costs for its homeless housing program;

(c) At least 15 percent will be retained and used by the county for eligible housing activities, as described in this subsection, that serve extremely low and very low-income households in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county consistent with countywide and local housing needs and policies. A priority must be given to eligible housing activities that serve extremely low-income households with incomes at or below 30 percent of the area median income. Eligible housing activities to be funded are limited to:

(i) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income households with incomes at or below 50 percent of the area median income, including units for homeownership, rental units, seasonal and permanent farmworker housing units, units reserved for victims of human trafficking and their families, and single room occupancy units;

(ii) Supporting building operation and maintenance costs of housing projects or units within housing projects eligible to receive housing trust funds, that are affordable to very low-income households with incomes at or below 50 percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(iii) Rental assistance vouchers for housing units that are affordable to very low-income households with incomes at or below 50 percent of the area median income, including rental housing vouchers for victims of human trafficking and their families, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with or similar to the United States department of housing and urban development's section 8 rental assistance voucher program standards; and

(iv) Operating costs for emergency shelters and licensed overnight youth shelters.

(4) The department of commerce shall use the funds from the document recording fee or other fund sources deposited in the home security fund account as follows, except that the department of commerce shall provide counties with the right of first refusal to receive grant funds distributed under (b) of this subsection (4). If a county refuses the funds or does not respond within a time frame established by the department, the department shall make good faith efforts to identify one or more suitable alternative grantees operating within that county. The alternative grantee shall distribute the funds in a manner that is in compliance with this chapter. Funding provided through the office of homeless youth prevention and protection programs created in RCW 43.330.705 is exempt from the county first refusal requirement.

(a) Up to 10 percent for administration of the programs established in chapter 43.185C RCW and in conformance with this subsection (4), including the costs of creating and implementing strategic plans,

collecting and evaluating data, measuring and reporting performance, providing technical assistance to local governments, providing training to entities delivering services, and developing and maintaining stakeholder relationships;

(b) At least 90 percent for homelessness assistance grant programs administered by the department, including but not limited to: Temporary rental assistance; eviction prevention rental assistance per RCW 43.185C.185; emergency shelter and transitional housing operations and maintenance; outreach; diversion; HOPE and crisis residential centers; young adult housing; homeless services and case management for adult, family, youth, and young adult homeless populations and those at risk of homelessness; project-based vouchers for nonprofit housing providers or public housing authorities; tenant-based rent assistance; housing services; rapid rehousing; emergency housing; acquisition; operations; maintenance; and service costs for permanent supportive housing as defined in RCW 36.70A.030 for individuals with disabilities. Grantees may also use these funds in partnership with permanent supportive housing programs administered by the office of apple health and homes created in RCW 43.330.181. Priority for use must be given to purposes intended to house persons who are chronically homeless or to maintain housing for individuals with disabilities and prior experiences of homelessness, including families with children.

(5) The department of commerce shall use the funds from the document recording fee or other fund sources deposited in the affordable housing for all account as follows:

(a) Up to 10 percent for program administration and technical assistance necessary for the delivery programs and activities under this subsection (5);

(b) At least 90 percent for the following:

(i) Grants for building operation and maintenance costs of housing projects, or units within housing projects, that are in the state's housing trust fund portfolio, are affordable to extremely low-income households with incomes at or below 30 percent of the area median income, and require a supplement to rent income to cover ongoing operating expenses;

(ii) Grants to support the building operations, maintenance, and supportive service costs for permanent supportive housing projects, or units within housing projects, that have received or will receive funding from the housing trust fund or other public capital funding programs. The supported projects or units must be dedicated as permanent supportive housing as defined in RCW 36.70A.030, be occupied by extremely low-income households with incomes at or below 30 percent of the area median income, and require a supplement to rent income to cover ongoing property operations, maintenance, and supportive services expenses.

(6) The department of commerce shall use the funds from the document recording fee or other fund sources deposited in the landlord mitigation program account to administer the

landlord mitigation program as established in RCW 43.31.605. The department of commerce may use up to 10 percent of these funds for program administration and the development and maintenance of a database necessary to administer the program.

Sec. 2. RCW 43.185C.010 and 2019 c 124 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) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center.

(2) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department of children, youth, and families seeking adjudication of placement of the child.

(3) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(4) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

(5) "Department" means the department of commerce.

(6) "Director" means the director of the department of commerce.

(7) "Home security fund account" means the state treasury account receiving (~~the state's portion of~~) income from revenue (~~from the sources established by RCW 36.22.179 and 36.22.1791~~) under section 1(2)(c) of this act, and all other sources directed to the homeless housing and assistance program.

(8) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the home security fund account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(9) "Homeless housing plan" means the five-year plan developed by the county or other local government to address housing for homeless persons.

(10) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(11) "Homeless housing strategic plan" means the five-year plan developed by the department, in consultation with the interagency council on homelessness, the affordable housing advisory board, and the state advisory council on homelessness.

(12) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes

substance abusers, people with mental illness, and sex offenders who are homeless.

(13) "HOPE center" means an agency licensed by the secretary of the department of children, youth, and families to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(16) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of commerce; (b) the department of corrections; (c) the department of children, youth, and families; (d) the department of veterans affairs; and (e) the department of health.

(17) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(18) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(19) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(20) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(21) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(22) "Semi-secure facility" means any facility including, but not limited to, crisis residential centers or specialized

foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the facility administrator, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(23) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department of children, youth, and families with a ratio of at least one adult staff member to every two children.

(24) "Street outreach services" means a program that provides services and resources either directly or through referral to street youth and unaccompanied young adults as defined in RCW 43.330.702. Services including crisis intervention, emergency supplies, case management, and referrals may be provided through community-based outreach or drop-in centers.

(25) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(26) "Washington homeless client management information system" means a database of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

Sec. 3. RCW 43.185C.045 and 2021 c 214 s 3 are each amended to read as follows:

(1) By December 1st of each year, the department must provide an update on the state's homeless housing strategic plan and its activities for the prior fiscal year. The report must include, but not be limited to, the following information:

(a) An assessment of the current condition of homelessness in Washington state and the state's performance in meeting the goals in the state homeless housing strategic plan;

(b) A report on the results of the annual homeless point-in-time census conducted statewide under RCW 43.185C.030;

(c) The amount of federal, state, local, and private funds spent on homelessness assistance, categorized by funding source and the following major assistance types:

(i) Emergency shelter;

(ii) Homelessness prevention and rapid rehousing;

(iii) Permanent housing;

(iv) Permanent supportive housing;

(v) Transitional housing;

(vi) Services only; and

(vii) Any other activity in which more than five hundred thousand dollars of category funds were expended;

(d) A report on the expenditures, performance, and outcomes of state funds distributed through the consolidated homeless grant program, including the grant recipient, award amount expended, use of the funds, counties served, and households served;

(e) A report on state and local homelessness document recording fee expenditure by county, including the total amount of fee spending, percentage of total spending from fees, and number of people served by major assistance type(~~, and amount of expenditures for private rental housing payments required in RCW 36.22.179~~);

(f) A report on the expenditures, performance, and outcomes of the essential needs and housing support program meeting the requirements of RCW 43.185C.220;

(g) A report on the expenditures, performance, and outcomes of the independent youth housing program meeting the requirements of RCW 43.63A.311;

(h) A county-level report on the expenditures, performance, and outcomes of the eviction prevention rental assistance program under RCW 43.185C.185. The report must include, but is not limited to:

(i) The number of adults without minor children served in each county;

(ii) The number of households with adults and minor children served in each county; and

(iii) The number of unaccompanied youth and young adults who are being served in each county; and

(i) A county-level report on the expenditures, performance, and outcomes of the rapid rehousing, project-based vouchers, and housing acquisition programs under ((RCW 36.22.176))section 1 of this act. The report must include, but is not limited to:

(i) The number of persons who are unsheltered receiving shelter through a project-based voucher in each county;

(ii) The number of units acquired or built via rapid rehousing and housing acquisition in each county; and

(iii) The number of adults without minor children, households with adults and minor children, unaccompanied youth, and young adults who are being served by the programs under ((RCW 36.22.176))section 1 of this act in each county.

(2) The report required in subsection (1) of this section must be posted to the department's website and may include links to updated or revised information contained in the report.

(3) Any local government receiving state funds for homelessness assistance or state or local homelessness document recording fees under ((RCW 36.22.178, 36.22.179, or 36.22.1791))section 1 of this act must provide an annual report on the current condition of homelessness in its

jurisdiction, its performance in meeting the goals in its local homeless housing plan, and any significant changes made to the plan. The annual report must be posted on the department's website. Along with each local government annual report, the department must produce and post information on the local government's homelessness spending from all sources by project during the prior state fiscal year in a format similar to the department's report under subsection (1)(c) of this section. If a local government fails to report or provides an inadequate or incomplete report, the department must take corrective action, which may include withholding state funding for homelessness assistance to the local government to enable the department to use such funds to contract with other public or nonprofit entities to provide homelessness assistance within the jurisdiction.

Sec. 4. RCW 43.185C.060 and 2021 c 334 s 980 and 2021 c 214 s 4 are each reenacted and amended to read as follows:

(1) The home security fund account is created in the state treasury, subject to appropriation. ((The state's portion of the surcharge established in RCW 36.22.179 and 36.22.1791 and 36.22.176 must be deposited in the account.)) Expenditures from the account may be used only for ((homeless housing)) programs as described in this chapter ((, including the eviction prevention rental assistance program established in RCW 43.185C.185)).

(2)(a) By December 15, 2021, the department, in consultation with stakeholder groups specified in RCW 43.185C.185(2)(c), must create a set of performance metrics for each county receiving funding under ((RCW 36.22.176))section 1(4)(b) of this act. The metrics must target actions within a county's control that will prevent and reduce homelessness, such as increasing the number of permanent supportive housing units and increasing or maintaining an adequate number of noncongregate shelter beds.

(b)(i) Beginning July 1, 2023, and by July 1st every two years thereafter, the department must award funds ((for project-based vouchers for nonprofit housing providers and related services, rapid rehousing, and housing acquisition under RCW 36.22.176))under section 1(4)(b) of this act to eligible grantees in a manner that ((15)) percent of funding is distributed as a performance-based allocation based on performance metrics created under (a) of this subsection, in addition to any base allocation of funding for the county.

(ii) Any county that demonstrates that it has met or exceeded the majority of the target actions to prevent and reduce homelessness over the previous two years must receive the remaining 15 percent performance-based allocation. Any county that fails to meet or exceed the majority of target actions to prevent and reduce homelessness must enter into a corrective action plan with the department. To receive its performance-based allocation, a county must agree to undertake the corrective actions outlined in the corrective action plan and any reporting and monitoring deemed

necessary by the department. Any county that fails to meet or exceed the majority of targets for two consecutive years after entering into a corrective action plan may be subject to a reduction in the performance-based portion of the funds received in (b)(i) of this subsection, at the discretion of the department in consultation with stakeholder groups specified in RCW 43.185C.185(2)(c). Performance-based allocations unspent due to lack of compliance with a corrective action plan created under this subsection (2)(b) may be distributed to other counties that have met or exceeded their target actions.

(3) The department must distinguish allotments from the account made to carry out the activities in RCW 43.330.167, 43.330.700 through 43.330.715, 43.330.911, 43.185C.010, and 43.185C.250 through 43.185C.320(, and 36.22.179(1)(b)).

~~(4) ((The office of financial management must secure an independent expenditure review of state funds received under RCW 36.22.179(1)(b) on a biennial basis. The purpose of the review is to assess the consistency in achieving policy priorities within the private market rental housing segment for housing persons experiencing homelessness. The independent reviewer must notify the department and the office of financial management of its findings. The first biennial expenditure review, for the 2017-2019 fiscal biennium, is due February 1, 2020. Independent reviews conducted thereafter are due February 1st of each even-numbered year.~~

~~(5))~~ During the 2019-2021 and 2021-2023 fiscal biennia, expenditures from the account may also be used for shelter capacity grants.

Sec. 5. RCW 43.185C.070 and 2005 c 484 s 11 are each amended to read as follows:

(1) During each calendar year in which moneys from the ~~((homeless housing))~~ home security fund account are available for use by the department for the homeless housing grant program, the department shall announce to all Washington counties, participating cities, and through major media throughout the state, a grant application period of at least ninety days' duration. This announcement will be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds, less appropriate administrative costs of the department as described in ~~((RCW 36.22.179))~~ section 1(4)(a) of this act.

(2) The department will develop, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, criteria to evaluate grant applications.

(3) The department may approve applications only if they are consistent with the local and state homeless housing program strategic plans. The department may give preference to applications based on some or all of the following criteria:

(a) The total homeless population in the applicant local government service area, as

reported by the most recent annual Washington homeless census;

(b) Current local expenditures to provide housing for the homeless and to address the underlying causes of homelessness as described in RCW 43.185C.005;

(c) Local government and private contributions pledged to the program in the form of matching funds, property, infrastructure improvements, and other contributions; and the degree of leveraging of other funds from local government or private sources for the program for which funds are being requested, to include recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Construction projects or rehabilitation that will serve homeless individuals or families for a period of at least twenty-five years;

(e) Projects which demonstrate serving homeless populations with the greatest needs, including projects that serve special needs populations;

(f) The degree to which the applicant project represents a collaboration between local governments, nonprofit community-based organizations, local and state agencies, and the private sector, especially through its integration with the coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650;

(g) The cooperation of the local government in the annual Washington homeless census project;

(h) The commitment of the local government and any subcontracting local governments, nonprofit organizations, and for-profit entities to employ a diverse workforce;

(i) The extent, if any, that the local homeless population is disproportionate to the revenues collected under this chapter and ~~((RCW 36.22.178 and 36.22.179))~~ section 1 of this act; and

(j) Other elements shown by the applicant to be directly related to the goal and the department's state strategic plan.

Sec. 6. RCW 43.185C.080 and 2005 c 484 s 12 are each amended to read as follows:

(1) Only a local government is eligible to receive a homeless housing grant from the ~~((homeless housing))~~ home security fund account. Any city may assert responsibility for homeless housing within its borders if it so chooses, by forwarding a resolution to the legislative authority of the county stating its intention and its commitment to operate a separate homeless housing program. The city shall then receive a percentage of the surcharge assessed under ~~((RCW 36.22.179))~~ section 1(2)(b) of this act equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for homeless housing program grants. A city choosing to operate a separate homeless housing program shall be responsible for complying with all of the same requirements as counties and shall adopt a local homeless

housing plan meeting the requirements of this chapter for county local plans. However, the city may by resolution of its legislative authority accept the county's homeless housing task force as its own and based on that task force's recommendations adopt a homeless housing plan specific to the city.

(2) Local governments applying for homeless housing funds may subcontract with any other local government, housing authority, community action agency or other nonprofit organization for the execution of programs contributing to the overall goal of ending homelessness within a defined service area. All subcontracts shall be consistent with the local homeless housing plan adopted by the legislative authority of the local government, time limited, and filed with the department and shall have specific performance terms. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

(3) A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If such a resolution is adopted, all of the funds otherwise due to the county under RCW 43.185C.060 shall be remitted monthly to the state treasurer for deposit in the ~~((homeless housing))~~ home security fund account, without any reduction by the county for collecting or administering the funds. Upon receipt of the resolution, the department shall promptly begin to identify and contract with one or more entities eligible under this section to create and execute a local homeless housing plan for the county meeting the requirements of this chapter. The department shall expend all of the funds received from the county under this subsection to carry out the purposes of chapter 484, Laws of 2005 in the county, provided that the department may retain six percent of these funds to offset the cost of managing the county's program.

(4) A resolution by the county declining to participate in the program shall have no effect on the ability of each city in the county to assert its right to manage its own program under this chapter, and the county shall monthly transmit to the city the funds due under this chapter.

Sec. 7. RCW 43.185C.185 and 2021 c 214 s 2 are each amended to read as follows:

(1) The eviction prevention rental assistance program is created in the department to prevent evictions by providing resources to households most likely to become homeless or suffer severe health consequences, or both, after an eviction, while promoting equity by prioritizing households, including communities of color, disproportionately impacted by public health emergencies and by homelessness and housing instability. The department must provide grants to eligible organizations, as described in RCW 43.185.060, to provide

assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, including rental arrears and future rent if needed to stabilize the applicant's housing and prevent their eviction;

(b) Utility assistance for households if needed to prevent an eviction; and

(c) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Households eligible to receive assistance through the eviction prevention rental assistance program are those:

(a) With incomes at or below 80 percent of the county area median income;

(b) Who are families with children, living in doubled up situations, young adults, senior citizens, and others at risk of homelessness or significant physical or behavioral health complications from homelessness; and

(c) That meet any other eligibility requirements as established by the department after consultation with stakeholder groups, including persons at risk of homelessness due to unpaid rent, representatives of communities of color, homeless service providers, landlord representatives, local governments that administer homelessness assistance, a statewide association representing cities, a statewide association representing counties, a representative of homeless youth and young adults, and affordable housing advocates.

(3) A landlord may assist an eligible household in applying for assistance through the eviction prevention rental assistance program or may apply for assistance on an eligible household's behalf.

(4)(a) Eligible grantees must actively work with organizations rooted in communities of color to assist and serve marginalized populations within their communities.

(b) At least 10 percent of the grant total must be subgranted to organizations that serve and are substantially governed by marginalized populations to pay the costs associated with program outreach, assistance completing applications for assistance, rent assistance payments, activities that directly support the goal of improving access to rent assistance for people of color, and related costs. Upon request by an eligible grantee or the county or city in which it exists, the department must provide a list of organizations that serve and are substantially governed by marginalized populations, if known.

(c) An eligible grantee may request an exemption from the department from the requirements under (b) of this subsection. The department must consult with the stakeholder group established under subsection (2)(c) of this section before granting an exemption. An eligible grantee may request an exemption only if the eligible grantee:

(i) Is unable to subgrant with an organization that serves and is substantially governed by marginalized populations; or

(ii) Provides the department with a plan to spend 10 percent of the grant total in a

manner that the department determines will improve racial equity for historically underserved communities more effectively than a subgrant.

(5) The department must ensure equity by developing performance measures and benchmarks that promote both equitable program access and equitable program outcomes. Performance measures and benchmarks must be developed by the department in consultation with stakeholder groups, including persons at risk of homelessness due to unpaid rent, representatives of communities of color, homeless service providers, landlord representatives, local governments that administer homelessness assistance, a statewide association representing cities, a statewide association representing counties, a representative of homeless youth and young adults, and affordable housing advocates. Performance measures and benchmarks must also ensure that the race and ethnicity of households served under the program are proportional to the numbers of people at risk of homelessness in each county for each of the following groups:

- (a) Black or African American;
- (b) American Indian and Alaska Native;
- (c) Native Hawaiian or other Pacific Islander;
- (d) Hispanic or Latinx;
- (e) Asian;
- (f) Other multiracial.

(6) The department may develop additional rules, requirements, procedures, and guidelines as necessary to implement and operate the eviction prevention rental assistance program.

(7)(a) The department must award funds under this section to eligible grantees in a manner that is proportional to the amount of revenue collected under ~~((RCW 36.22.176))~~ section 1 of this act from the county being served by the grantee.

(b) The department must provide counties with the right of first refusal to receive grant funds distributed under this subsection. If a county refuses the funds or does not respond within a time frame established by the department, the department must identify an alternative grantee. The alternative grantee must distribute the funds in a manner that is in compliance with this chapter.

Sec. 8. RCW 43.185C.190 and 2021 c 334 s 981 and 2021 c 214 s 5 are each reenacted and amended to read as follows:

The affordable housing for all account is created in the state treasury, subject to appropriation. ~~((The state's portion of the surcharges established in RCW 36.22.178 and 36.22.176 shall be deposited in the account.))~~ Expenditures from the account may only be used for ~~((affordable housing programs, including operations, maintenance, and services as described in RCW 36.22.176(1)(a))~~ allowable uses as described in section 1(5) of this act. During the 2021-2023 fiscal biennium, expenditures from the account may be used for operations, maintenance, and services for permanent supportive housing as defined in RCW 36.70A.030. It is the intent of the

legislature to continue this policy in future biennia.

Sec. 9. RCW 36.18.010 and 2022 c 141 s 2 are each amended to read as follows:

Except as otherwise ordered by the court pursuant to RCW 4.24.130, county auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by ~~((fourteen))~~ 14 inches or less, five dollars; for each additional page eight and one-half by ~~((fourteen))~~ 14 inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by ~~((fourteen))~~ 14 inches or less, three dollars; for each additional page eight and one-half by ~~((fourteen))~~ 14 inches or less, one dollar;

(3) For preparing noncertified copies, for each page eight and one-half by ~~((fourteen))~~ 14 inches or less, one dollar;

(4) For administering an oath or taking an affidavit, with or without seal, two dollars;

(5) For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, eight dollars;

(7) For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by ~~((fourteen))~~ 14 inches or less, five dollars; for each additional page eight and one-half by ~~((fourteen))~~ 14 inches or less, one dollar;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170;

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, ~~((fifty dollars))~~ \$50, in addition to all other applicable recording fees;

(11) For recording instruments, a three dollar surcharge to be deposited into the Washington state library operations account created in RCW 43.07.129;

(12) For recording instruments, a two dollar surcharge to be deposited into the Washington state library-archives building account created in RCW 43.07.410 until the financing contract entered into by the secretary of state for the Washington state library-archives building is paid in full;

~~(13) ((For recording instruments, a surcharge as provided in RCW 36.22.178; and~~

~~(14)) For recording instruments, ((except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a) the surcharge as provided in ((RCW 36.22.179)) section 1 of this act.~~

Sec. 10. RCW 59.18.030 and 2021 c 212 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Active duty" means service authorized by the president of the United States, the secretary of defense, or the governor for a period of more than 30 consecutive days.

(2) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of chapter 5.50 RCW by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(3) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(4) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available

directly to a prospective landlord at no charge, which contains all of the following:

(a) A consumer credit report prepared by a consumer reporting agency within the past 30 days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(5) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(6) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(7) "Distressed home" has the same meaning as in RCW 61.34.020.

(8) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(9) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(10) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(11) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(12) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(13) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(14) "Immediate family" includes state registered domestic partner, spouse, parents, grandparents, children, including foster children, siblings, and in-laws.

(15) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least 30 days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the

mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

- (i) The mortgagee;
- (ii) A person licensed or required to be licensed under chapter 19.134 RCW;
- (iii) A person licensed or required to be licensed under chapter 19.146 RCW;
- (iv) A person licensed or required to be licensed under chapter 18.85 RCW;
- (v) An attorney-at-law;
- (vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or
- (vii) Any other party to a distressed property conveyance.

(16) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(17) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(18) "Orders" means written official military orders, or any written notification, certification, or verification from the service member's commanding officer, with respect to the service member's current or future military status.

(19) "Owner" means one or more persons, jointly or severally, in whom is vested:

- (a) All or any part of the legal title to property; or
- (b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(20) "Permanent change of station" means: (a) Transfer to a unit located at another port or duty station; (b) change in a unit's home port or permanent duty station; (c) call to active duty for a period not less than 90 days; (d) separation; or (e) retirement.

(21) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(22) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(23) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(24) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(25) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(26) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an

American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(27) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(28) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(29) "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. Except as provided in RCW 59.18.283(3), these terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees.

(30) "Rental agreement" or "lease" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(31) "Service member" means an active member of the United States armed forces, a member of a military reserve component, or a member of the national guard who is either stationed in or a resident of Washington state.

(32) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(33) "Subsidized housing" refers to rental housing for very low-income or low-income households that is a dwelling unit operated directly by a public housing authority or its affiliate, or that is insured, financed, or assisted in whole or in part through one of the following sources:

(a) A federal program or state housing program administered by the department of commerce or the Washington state housing finance commission;

(b) A federal housing program administered by a city or county government;

(c) An affordable housing levy authorized under RCW 84.52.105; or

(d) The surcharges authorized in (~~RCW 36.22.178 and 36.22.179~~) section 1 of this act and any of the surcharges authorized in chapter 43.185C RCW.

(34) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(35) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

(36) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

(37) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

(38) "Transitional housing" means housing units owned, operated, or managed by a nonprofit organization or governmental entity in which supportive services are provided to individuals and families that were formerly homeless, with the intent to stabilize them and move them to permanent housing within a period of not more than twenty-four months, or longer if the program is limited to tenants within a specified age range or the program is intended for tenants in need of time to complete and transition from educational or training or service programs.

Sec. 11. RCW 84.36.560 and 2020 c 273 s 1 are each amended to read as follows:

(1) The real and personal property owned or used by a nonprofit entity in providing rental housing for qualifying households or used to provide space for the placement of a mobile home for a qualifying household within a mobile home park is exempt from taxation if:

(a) The benefit of the exemption inures to the nonprofit entity;

(b) At least seventy-five percent of the occupied dwelling units in the rental housing or lots in a mobile home park are occupied by a qualifying household; and

(c) The rental housing or lots in a mobile home park were insured, financed, or assisted in whole or in part through one or more of the following sources:

(i) A federal or state housing program administered by the department of commerce;

(ii) A federal housing program administered by a city or county government;

(iii) An affordable housing levy authorized under RCW 84.52.105;

(iv) The surcharges authorized by (~~RCW 36.22.178 and 36.22.179~~) section 1 of this act and any of the surcharges authorized in chapter 43.185C RCW; or

(v) The Washington state housing finance commission, provided that the financing is for a mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030, or a nonprofit entity.

(2) If less than seventy-five percent of the occupied dwelling units within the rental housing or lots in the mobile home park are occupied by qualifying households, the rental housing or mobile home park is eligible for a partial exemption on the real property and a total exemption of the housing's or park's personal property as follows:

(a) A partial exemption is allowed for each dwelling unit in the rental housing or for each lot in a mobile home park occupied by a qualifying household.

(b) The amount of exemption must be calculated by multiplying the assessed value of the property reasonably necessary to provide the rental housing or to operate the mobile home park by a fraction. The numerator of the fraction is the number of dwelling units or lots occupied by qualifying households as of December 31st of the first assessment year in which the rental housing or mobile home park becomes operational or on January 1st of each subsequent assessment year for which the exemption is claimed. The denominator of the fraction is the total number of dwelling units or lots occupied as of December 31st of the first assessment year the rental housing or mobile home park becomes operational and January 1st of each subsequent assessment year for which exemption is claimed.

(3) If a currently exempt rental housing unit or mobile home lot in a mobile home park was occupied by a qualifying household at the time the exemption was granted and the income of the household subsequently rises above the threshold set in subsection (7)(e) of this section but remains at or below eighty percent of the median income, the exemption will continue as long as the housing continues to meet the certification requirements listed in subsection (1) of this section. For purposes of this section, median income, as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located, shall be adjusted for family size. However, if a dwelling unit or a lot becomes vacant and is subsequently re-rented, the income of the new household must be at or

below the threshold set in subsection (7)(e) of this section to remain exempt from property tax.

(4) If at the time of initial application the property is unoccupied, or subsequent to the initial application the property is unoccupied because of renovations, and the property is not currently being used for the exempt purpose authorized by this section but will be used for the exempt purpose within two assessment years, the property shall be eligible for a property tax exemption for the assessment year in which the claim for exemption is submitted under the following conditions:

(a) A commitment for financing to acquire, construct, renovate, or otherwise convert the property to provide housing for qualifying households has been obtained, in whole or in part, by the nonprofit entity claiming the exemption from one or more of the sources listed in subsection (1)(c) of this section;

(b) The nonprofit entity has manifested its intent in writing to construct, remodel, or otherwise convert the property to housing for qualifying households; and

(c) Only the portion of property that will be used to provide housing or lots for qualifying households shall be exempt under this section.

(5) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(6) The nonprofit entity qualifying for a property tax exemption under this section may agree to make payments to the city, county, or other political subdivision for improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the rental housing. However, these payments shall not exceed the amount last levied as the annual tax of the city, county, or political subdivision upon the property prior to exemption.

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

(a) "Group home" means a single-family dwelling financed, in whole or in part, by one or more of the sources listed in subsection (1)(c) of this section. The residents of a group home shall not be considered to jointly constitute a household, but each resident shall be considered to be a separate household occupying a separate dwelling unit. The individual incomes of the residents shall not be aggregated for purposes of this exemption;

(b) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030;

(c) "Occupied dwelling unit" means a living unit that is occupied by an individual or household as of December 31st of the first assessment year the rental housing becomes operational or is occupied by an individual or household on January 1st of each subsequent assessment year in which the claim for exemption is submitted. If the housing facility is comprised of three or fewer dwelling units and there are any unoccupied units on January 1st, the

department shall base the amount of the exemption upon the number of occupied dwelling units as of December 31st of the first assessment year the rental housing becomes operational and on May 1st of each subsequent assessment year in which the claim for exemption is submitted;

(d) "Rental housing" means a residential housing facility or group home that is occupied but not owned by qualifying households;

(e)(i) "Qualifying household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located and in effect as of January 1st of the year the application for exemption is submitted;

(ii) Beginning July 1, 2021, "qualifying household" means a single person, family, or unrelated persons living together whose income is at or below sixty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located and in effect as of January 1st of the year the application for exemption is submitted; and

(f) "Nonprofit entity" means a:

(i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code;

(ii) Limited partnership where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a general partner;

(iii) Limited liability company where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a managing member; or

(iv) Mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030.

Sec. 12. RCW 84.36.675 and 2022 c 93 s 2 are each amended to read as follows:

(1) The real property owned by a limited equity cooperative that provides owned housing for low-income households is exempt from property taxation if:

(a) The benefit of the exemption inures to the limited equity cooperative and its members;

(b) At least 85 percent of the occupied dwelling units in the limited equity cooperative is occupied by members of the limited equity cooperative determined as of

January 1st of each assessment year for which the exemption is claimed;

(c) At least 95 percent of the property for which the exemption is sought is used for dwelling units or other noncommercial uses available for use by the members of the limited equity cooperative; and

(d) The housing was insured, financed, or assisted, in whole or in part, through one or more of the following sources:

(i) A federal or state housing program administered by the department of commerce;

(ii) A federal or state housing program administered by the federal department of housing and urban development;

(iii) A federal housing program administered by a city or county government;

(iv) An affordable housing levy authorized under RCW 84.52.105;

(v) The surcharges authorized by ((RCW 36.22.178 and 36.22.179))section 1 of this act and any of the surcharges authorized in chapter 43.185C RCW; or

(vi) The Washington state housing finance commission.

(2) If less than 100 percent of the dwelling units within the limited equity cooperative is occupied by low-income households, the limited equity cooperative is eligible for a partial exemption on the real property. The amount of exemption must be calculated by multiplying the assessed value of the property owned by the limited equity cooperative by a fraction. The numerator of the fraction is the number of dwelling units occupied by low-income households as of January 1st of each assessment year for which the exemption is claimed, and the denominator of the fraction is the total number of dwelling units as of such date.

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

(a) "Cooperative" has the meaning provided in RCW 64.90.010.

(b)(i) "Limited equity cooperative" means a cooperative subject to the Washington uniform common interest ownership act under chapter 64.90 RCW that owns the real property for which an exemption is sought under this section and for which, following the completion of the development or redevelopment of such real property:

(A) Members are prevented from selling their ownership interests other than to a median-income household; and

(B) Members are prevented from selling their ownership interests for a sales price that exceeds the sum of:

(I) The sales price they paid for their ownership interest;

(II) The cost of permanent improvements they made to the dwelling unit during their ownership;

(III) Any special assessments they paid to the limited equity cooperative during their ownership to the extent utilized to make permanent improvements to the building or buildings in which the dwelling units are located; and

(IV) A three percent annual noncompounded return on the above amounts.

(ii) For the purposes of this subsection (3)(b), "sales price" is the total consideration paid or contracted to be paid

to the seller or to another for the seller's benefit.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose income is at or below 80 percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the housing is located and in effect as of January 1st of the year in which the determination is to be made as to whether the single person, family, or unrelated persons living together qualify as a low-income household.

(d) "Median-income household" means a single person, family, or unrelated persons living together whose income is at or below 100 percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the housing is located and in effect as of January 1st of the year in which the determination is to be made as to whether the single person, family, or unrelated persons living together qualify as a median-income household.

(e) "Members" of a limited equity cooperative means individuals or entities that have an ownership interest in the limited equity cooperative that entitles them to occupy and sell a dwelling unit in the limited equity cooperative.

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

(1) RCW 36.22.176 (Recorded document surcharge—Use) and 2022 c 216 s 7 & 2021 c 214 s 1;

(2) RCW 36.22.178 (Affordable housing for all surcharge—Permissible uses) and 2021 c 214 s 7, 2019 c 136 s 1, 2018 c 66 s 5, 2011 c 110 s 1, 2007 c 427 s 1, 2005 c 484 s 18, & 2002 c 294 s 2;

(3) RCW 36.22.179 (Surcharge for local homeless housing and assistance—Use) and 2021 c 214 s 8, 2019 c 136 s 2, 2018 c 85 s 2, 2017 3rd sp.s. c 16 s 5, 2014 c 200 s 1, 2012 c 90 s 1, 2011 c 110 s 2, 2009 c 462 s 1, 2007 c 427 s 4, & 2005 c 484 s 9;

(4) RCW 36.22.1791 (Additional surcharge for local homeless housing and assistance—Use) and 2021 c 214 s 9, 2019 c 136 s 3, 2011 c 110 s 3, & 2007 c 427 s 5;

(5) RCW 43.185C.061 (Home security fund account—Exemptions from set aside) and 2015 c 69 s 27; and

(6) RCW 43.185C.215 (Transitional housing operating and rent account) and 2008 c 256 s 2.

NEW SECTION. **Sec. 14.** Section 12 of this act expires January 1, 2033."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Steele and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

SSB 5388 Prime Sponsor, Health & Long Term Care: Concerning improving diversity in clinical trials. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Harris; Rude; Sandlin; Schmick; and Steele.

Referred to Committee on Rules for second reading

April 3, 2023

SB 5390 Prime Sponsor, Senator Shewmake: Establishing a programmatic safe harbor agreement on forestlands. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

SSB 5415 Prime Sponsor, Law & Justice: Concerning public defense services for persons committed as not guilty by reason of insanity. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Simmons; Slatter; Steele; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representative Senn.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5425 Prime Sponsor, Ways & Means: Concerning fire protection sprinkler system contractors. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Labor & Workplace Standards. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair;

Gregerson, Vice Chair; Macri, Vice Chair; Berg; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Schmick; and Steele.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5438 Prime Sponsor, Ways & Means: Facilitating supportive relationships with family and significant individuals within the behavioral health system. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

E2SSB 5440 Prime Sponsor, Ways & Means: Providing timely competency evaluations and restoration services to persons suffering from behavioral health disorders. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Civil Rights & Judiciary.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that defendants referred for services related to competency to stand trial requiring admission into a psychiatric facility are currently facing unprecedented wait times in jail for admission. The situation has been exacerbated by closure of forensic beds and workforce shortages related to COVID-19, and treatment capacity limits related to social distancing requirements. Moreover, a backlog of criminal prosecutions that were held back during the first two years of the pandemic due to capacity limitations in courts, prosecuting attorneys offices, and jails, are now being filed, causing a surge in demand for competency services which exceeds the state's capacity to make a timely response. In partial consequence, as of January 2023, wait times for admission to western state hospital for competency services, directed to be completed within seven days by order of the United States district court for western Washington, have risen to over ten months, while wait times for admission to eastern state hospital for

the same services have risen to over five months. The state's forensic bed capacity forecast model indicates that if the state continues to receive competency referrals from local superior, district, and municipal courts at the same volume, the state will rapidly fall farther behind.

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

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

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

As used in this chapter:

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

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

(3) "Clinical intervention specialist" means a licensed professional with prescribing authority who is employed by or contracted with the department to provide direct services, enhanced oversight and

monitoring of the behavioral health status of in-custody defendants who have been referred for evaluation or restoration services related to competency to stand trial and who coordinate treatment options with forensic navigators, the department, and jail health services.

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

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

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

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

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

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

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

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

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

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

~~((13))~~ (14) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

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

(16) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of

physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct.

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

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

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

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

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

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

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

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

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

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

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

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

((+20-)) (22) "Professional person" means:

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

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) If the defendant suffers from an intellectual or developmental disability, traumatic brain injury, or dementia, an opinion as to restorability;

(e) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control

by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3) ~~((d))~~ (e) unless the evaluator or court determines that the defendant is competent to stand trial;

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

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

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

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

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

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

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

(1)(a) The legislature establishes a performance target of seven days or fewer to extend an offer of admission to a defendant in pretrial custody for inpatient competency evaluation or inpatient competency

restoration services, when access to the services is legally authorized.

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

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

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

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

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

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

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

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

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

(b) The individual circumstances of the defendant make accurate completion of an evaluation of competency to stand trial dependent upon review of mental health, substance use disorder, or medical history information which is in the custody of a third party and cannot be immediately obtained by the department, provided that completion shall not be postponed for procurement of information which is merely supplementary;

(c) Additional time is needed for the defendant to no longer show active signs and symptoms of impairment related to substance

use so that an accurate evaluation may be completed;

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

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

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

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

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

(6) The department shall:

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

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

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

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

(8) The department shall report annually to the legislature and the executive on the timeliness of services related to competency to stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.

(9) This section does not create any new entitlement or cause of action related to

the timeliness of competency to stand trial services, nor can it form the basis for contempt sanctions under chapter 7.21 RCW or a motion to dismiss criminal charges.

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

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

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

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

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

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

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

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

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

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

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

(ii) Coordinating access to housing for the individual;

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

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

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

(vi) Assisting the individual with obtaining prescribed medication and

encouraging adherence with prescribed medication;

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

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

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

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

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

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

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

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

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

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

(8) A court may not issue an order appointing a forensic navigator unless the department certifies that there is adequate forensic navigator capacity to provide these services at the time the order is issued.

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

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the

court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section. Beginning October 1, 2023, if the defendant is charged with a serious traffic offense under RCW 9.94A.030, or a felony version of a serious traffic offense, the court may order the clerk to transmit an order to the department of licensing for revocation of the defendant's driver's license for a period of one year.

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

(c) The court's order for inpatient restoration, shall specify whether the department has the authority to change the defendant's placement to a step-down facility or outpatient competency restoration program if the department determines that such placement is clinically appropriate given the defendant's progress in restoration services.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Abstain from alcohol and unprescribed drugs; and

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

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

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

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

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

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

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

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

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

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

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

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

(5) At the hearing upon the expiration of the second competency restoration period, or at the end of the first competency restoration period if the defendant is ineligible for a second or third competency restoration period under subsection (4) of this section, if the jury or court finds that the defendant is incompetent to stand trial, the court shall dismiss the charges without prejudice and order the defendant to be committed to ~~((a state hospital))~~ the department for placement in a facility operated or contracted by the department for up to 120 hours if the defendant has not undergone competency restoration services or has engaged in outpatient competency restoration services and up to 72 hours if the defendant engaged in inpatient competency restoration services starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. However, the court shall not dismiss the charges if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. If the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

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

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

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

(2) (a) If the defendant is charged with a qualifying class C felony as their highest charge and determined to be incompetent, and the court finds that there is a diversion program available to accept the defendant as recommended by a forensic navigator, the court shall dismiss the proceedings without prejudice and refer the defendant to the recommended diversion program, except that if the court has previously determined that a diversion program under section 10 of this

act is not appropriate, the forensic navigator does not recommend diversion, or the prosecutor objects to the dismissal and provides notice of a motion for an order for competency restoration treatment, then the court shall schedule a hearing within seven days.

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

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

(c) If a court finds pursuant to (b) of this subsection that there is a compelling state interest in pursuing competency restoration treatment or the court has previously determined that a diversion program under section 10 of this act is not appropriate for the defendant, the court shall order the defendant to receive outpatient competency restoration consistent with the recommendation of the forensic navigator, unless the court finds that an order for outpatient competency restoration is inappropriate considering the health and safety of the defendant and risks to public safety. If the court does not order the defendant to receive outpatient competency restoration, the court shall commit the defendant to the department for placement in a facility operated or contracted by the department for inpatient competency restoration.

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

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

(ii) Abstain from alcohol and unprescribed drugs; and

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

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

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

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

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

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

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

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

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

~~((3-))~~ (b) For a defendant whose highest charge is a qualifying class C felony, the maximum time allowed for competency restoration is 45 days if the defendant is referred for inpatient competency restoration, or 90 days if the defendant is referred for outpatient competency restoration. The court may order any combination of inpatient and outpatient competency restoration under this subsection, but the total period of inpatient competency restoration may not exceed 45 days.

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

(5) If the court determines or the parties agree before the initial competency restoration period or at any subsequent stage of the proceedings that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo an initial or further period of competency

restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection ~~((5-))~~ (7) of this section.

~~((4-0a))~~ (6) For a defendant charged with a felony that is not a qualifying class C felony, on or before expiration of the initial competency restoration period the court shall conduct a hearing to determine whether the defendant is now competent to stand trial. If the court finds by a preponderance of the evidence that the defendant is incompetent to stand trial, the court may order an extension of the competency restoration period for an additional period of 90 days, but the court must at the same time set a date for a new hearing to determine the defendant's competency to stand trial before the expiration of this second restoration period. The defendant, the defendant's attorney, and the prosecutor have the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third competency restoration period if the defendant's incompetence has been determined by the secretary to be solely the result of ~~((a))~~ an intellectual or developmental disability, dementia, or traumatic brain injury which is such that competence is not reasonably likely to be regained during an extension.

~~((5-At))~~ (7) (a) Except as provided in (b) of this subsection, at the hearing upon the expiration of the second competency restoration period, or at the end of the first competency restoration period if the defendant is ineligible for a second or third competency restoration period under subsection (4) or (6) of this section, if the jury or court finds that the defendant is incompetent to stand trial, the court shall dismiss the charges without prejudice and order the defendant to be committed to ~~((a state hospital))~~ the department for placement in a facility operated or contracted by the department for up to 120 hours if the defendant has not undergone competency restoration services or has engaged in outpatient competency restoration services, and up to 72 hours if the defendant engaged in inpatient competency restoration services starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. ~~((However,))~~ If at the time the order to dismiss the charges without prejudice is entered by the court the defendant is already in a facility operated or contracted by the department, the 72-hour or 120-hour period shall instead begin upon department receipt of the court order.

(b) For a defendant charged with a felony that is not a qualifying class C felony, the court shall not dismiss the charges if the court or jury finds that: ~~((a-))~~ (i) The defendant ~~((i-))~~ (A) is a substantial danger to other persons; or ~~((i-))~~ (B) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and ~~((b-))~~ (ii) there is a substantial probability that the defendant will regain competency within a reasonable

period of time. If the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

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

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

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

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

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

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

(ii) If the defendant is subject to an order under chapter 71.05 RCW or proceedings under chapter 71.05 RCW have been initiated, there is a rebuttable presumption that there is no compelling state interest in ordering competency restoration treatment. Beginning October 1, 2023, if the defendant is charged with a serious traffic offense under RCW 9.94A.030, the court may order the clerk to transmit an order to the department of licensing for revocation of the defendant's driver's license for a period of one year.

The court shall direct the clerk to transmit an order to the department of licensing reinstating the defendant's driver's license if the defendant is subsequently restored to competency, and may do so at any time before the end of one year for good cause upon the petition of the defendant.

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

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

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

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

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

~~((d))~~(e) If a defendant fails to comply with the restrictions of the outpatient competency restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration placement and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration. The outpatient competency

restoration program shall coordinate with the authority, the department, and any law enforcement personnel under ~~((+@+))~~ (e) (i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be reduced by the time period spent in active treatment within the outpatient competency restoration program, excluding time periods in which the defendant was absent from the program and all time from notice of termination of the outpatient competency restoration period through the defendant's admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate the outpatient competency restoration placement.

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

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

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

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

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

subsection, but the total period of inpatient competency restoration may not exceed 29 days.

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

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

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

(6) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092 and found by the court to be not competent, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least 24 hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

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

(8) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility or is actively participating in an outpatient competency restoration program

and is in addition to reasonable time for transport to or from the facility.

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

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

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

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

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

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

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

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

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

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

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

(b) Any felony offense (~~(, except nonfelony counterfeiting offenses,)~~)

included in crimes against persons in RCW 9.94A.411;

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

(d) Any felony or gross misdemeanor offense listed as domestic violence in RCW 10.99.020;

(e) Any felony offense listed as a harassment offense in chapter 9A.46 RCW;

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

(g) Any gross misdemeanor violation of RCW 46.61.502 or 46.61.504;

(h) Any gross misdemeanor offense with a sexual motivation allegation; or

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

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

(3)(a) In a particular case, a court may determine that a pending charge not otherwise defined as serious by state or federal law or by a city or county ordinance is, nevertheless, a serious offense within the context of competency restoration treatment when the conduct in the charged offense falls within the standards established in (b) of this subsection.

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

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

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

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

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

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

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

(1) When an individual has a prescription for an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the individual to treat a serious mental illness by a state hospital or other state facility or a behavioral health agency or other certified medical provider, and the individual is medically stable on the drug, a jail or juvenile detention facility shall continue prescribing the prescribed drug and

may not require the substitution of a different drug in a given therapeutic class, except under the following circumstances:

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

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

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

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

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

(1) Following a competency evaluation under RCW 10.77.060, individuals who are found not competent to stand trial and not restorable due to an intellectual or developmental disability, dementia, or traumatic brain injury, shall not be referred for competency restoration services unless the highest current criminal charge is a violent offense or sex offense as defined in RCW 9.94A.030. A defendant with a prior finding under this subsection may only be referred for competency restoration services if the highest charge under the new proceedings is a violent offense or sex offense as defined in RCW 9.94A.030.

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

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

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

existing services, including submitting any exceptions to rule for additional services;

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

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

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

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

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

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

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

prejudice and was found incompetent to stand trial due to an intellectual or developmental disability, traumatic brain injury, or dementia.

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

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

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

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

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

Subject to the security and background investigation requirements of the jail, jails shall allow clinical intervention specialists to have access to individuals who are referred to receive services under this chapter and to all records relating to the health or conduct of the individual while incarcerated. Clinical intervention specialists shall support jail health services in providing direct services, enhanced oversight and monitoring of the behavioral health status of participating individuals. Clinical intervention specialists shall work collaboratively with

jail health services to ensure appropriate prescriptions, medication compliance monitoring, and access to supportive behavioral health services to the individuals. Clinical intervention specialists shall coordinate with forensic navigators and the department to assist forensic navigators in making recommendations for appropriate placements, which may include recommendations for participation in an outpatient competency restoration program or a diversion program designed for the needs of the individual. The clinical intervention specialist shall notify the department if a participating individual appears to have stabilized in their behavioral health such that a new competency evaluation is appropriate to reassess the individual's need for competency restoration treatment.

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

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

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

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

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

NEW SECTION. Sec. 20. (1) By January 2, 2024, the health care authority shall implement a pilot project in phase one *Trueblood* settlement regions, by creating three behavioral health crisis systems regional coordinator positions in the Pierce, southwest, and Spokane behavioral health administrative services organization regions. The purpose of the pilot project is to support and assist key participants across the various local voluntary, involuntary, and forensic behavioral health systems to better understand the intersection of these systems, their essential role in and across the system, and how to effectively navigate impacted individuals to the best options based on their circumstances and needs, including by increasing the utilization of assisted outpatient treatment, outpatient competency restoration services, and diversion programs for people living with behavioral health conditions who are involved or likely to have involvement with the criminal legal system.

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

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

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

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

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

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

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

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

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

(a) Identify challenges within these systems and develop strategies for improved coordination and access to services across systems;

(b) Work with local jurisdictions and the behavioral health administrative services organization, including the assisted outpatient treatment program coordinator established in RCW 71.24.045, to establish or improve assisted outpatient treatment programs, including increased utilization of assisted outpatient treatment for expanded populations;

(c) Work with local jurisdictions and the behavioral health administrative services organization to increase utilization of arrest and jail diversion programs;

(d) Work with local jurisdictions and the behavioral health administrative services organization to increase utilization of outpatient competency restoration program services; and

(e) Provide recommendations on statutory and regulatory changes needed to improve coordination and access to services across behavioral health systems to the joint

legislative and executive committee on behavioral health established within the office of financial management in the omnibus appropriations act for the 2023-2025 biennium.

(4) By September 30, 2025, the health care authority shall provide a preliminary report to the appropriate fiscal and policy committees of the legislature on the progress and outcomes of the pilot project, including steps taken to address identified challenges and improve coordination and access to behavioral health services within each region, and steps taken to establish or improve access to, and expanded utilization of, assisted outpatient treatment, arrest and jail diversion program services, and outpatient competency restoration program services within each region. The report shall also include any recommended statutory changes that are needed to facilitate improved coordination and access to services across behavioral health systems. The authority shall submit a final report by September 1, 2026.

(5) The health care authority, the department of social and health services, and regional managed care organizations shall provide the behavioral health crisis systems regional coordinators with any information that supports the systems improvement work of the behavioral health crisis systems regional coordinator.

(6) This section expires June 30, 2027.

Sec. 21. RCW 10.77.065 and 2019 c 325 s 5006 are each amended to read as follows:

(1)(a)(i) The expert conducting the evaluation shall provide his or her report and recommendation to the court in which the criminal proceeding is pending. For a competency evaluation of a defendant who is released from custody, if the evaluation cannot be completed within twenty-one days due to a lack of cooperation by the defendant, the evaluator shall notify the court that he or she is unable to complete the evaluation because of such lack of cooperation.

(ii) A copy of the report and recommendation shall be provided to the designated crisis responder, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(iv) of this subsection. Upon request, the evaluator shall also provide copies of any source documents relevant to the evaluation to the designated crisis responder.

(iii) Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within two working days or less following the final evaluation of the defendant. If the defendant is discharged to the custody of a local correctional facility, the local

correctional facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication and an involuntary medication order by the court has not been entered.

(iv) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the behavioral health administrative services organization, a professional person at the behavioral health administrative services organization to receive the report and recommendation.

(v) Upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator of the name of the professional person, or person designated under (a)(iv) of this subsection, to receive the report and recommendation.

(b) If the evaluator concludes, under RCW 10.77.060(3)((~~f~~))(g), the person should be evaluated by a designated crisis responder under chapter 71.05 RCW, the court shall order such evaluation be conducted prior to release from confinement when the person is acquitted or convicted and sentenced to confinement for twenty-four months or less, or when charges are dismissed pursuant to a finding of incompetent to stand trial.

(2) The designated crisis responder shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (1)(a) of this section.

(3) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the designated crisis responder under subsection (2) of this section to the secretary.

(4) A facility conducting a civil commitment evaluation under RCW 10.77.086(~~((4))~~)(7) or 10.77.088(~~((1)(e))~~)(~~(ii)~~)(5)(b) that makes a determination to release the person instead of filing a civil commitment petition must provide written notice to the prosecutor and defense attorney at least twenty-four hours prior to release. The notice may be given by email, facsimile, or other means reasonably likely to communicate the information immediately.

(5) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may also be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

Sec. 22. RCW 71.05.280 and 2022 c 210 s 15 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be committed for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment

has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of a behavioral health disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of a behavioral health disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.086(~~((4))~~)(7), and has committed acts constituting a felony, and as a result of a behavioral health disorder, presents a substantial likelihood of repeating similar acts.

(a) In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime;

(b) For any person subject to commitment under this subsection where the charge underlying the finding of incompetence is for a felony classified as violent under RCW 9.94A.030, the court shall determine whether the acts the person committed constitute a violent offense under RCW 9.94A.030; or

(4) Such person is gravely disabled.

Sec. 23. RCW 71.05.290 and 2022 c 210 s 16 are each amended to read as follows:

(1) At any time during a person's 14-day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated crisis responder may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2)(a)(i) The petition shall summarize the facts which support the need for further commitment and shall be supported by affidavits based on an examination of the patient and signed by:

(A) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a substance use disorder professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner.

(b) The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth any

recommendations for less restrictive alternative treatment services.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(~~((4))~~) (7), then the professional person in charge of the treatment facility or his or her professional designee or the designated crisis responder may directly file a petition for 180-day treatment under RCW 71.05.280(3), or for 90-day treatment under RCW 71.05.280 (1), (2), or (4). No petition for initial detention or 14-day detention is required before such a petition may be filed.

Sec. 24. RCW 71.05.300 and 2020 c 302 s 43 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. The clerk shall set a trial setting date as provided in RCW 71.05.310 on the next judicial day after the date of filing the petition and notify the designated crisis responder. The designated crisis responder shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health administrative services organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health administrative services organization administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) The attorney for the detained person shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and, if the petition is for commitment for mental health treatment, his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, psychiatrist, or other professional person, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW 10.77.086(~~((4))~~) (7), the appointed professional person under this section shall be a developmental disabilities professional.

Sec. 25. RCW 71.05.425 and 2021 c 264 s 19 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release,

final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(~~((4))~~) (7) to the following:

(i) The chief of police of the city, if any, in which the person will reside;

(ii) The sheriff of the county in which the person will reside; and

(iii) The prosecuting attorney of the county in which the criminal charges against the committed person were dismissed.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(~~((4))~~) (7):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(~~((4))~~) (7) preceding commitment under RCW 71.05.280(3) or 71.05.320(4)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings;

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter; and

(iv) The chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of the person on the date of the applicable offense.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(~~((4))~~) (7) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person escaped and in which the person resided immediately before the person's arrest and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(~~((4))~~) (7) preceding commitment under RCW 71.05.280(3) or 71.05.320(4) or the victim's next of kin if the crime was a homicide. In addition,

the secretary shall also notify appropriate parties pursuant to RCW 70.02.230(2)(o). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department of social and health services learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department of social and health services by the requesting party. The requesting party shall furnish the department of social and health services with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

Sec. 26. RCW 71.09.025 and 2009 c 409 s 2 are each amended to read as follows:

(1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in RCW 71.09.020(~~((16))~~), the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county in which an action under this chapter may be filed pursuant to RCW 71.09.030 and the attorney general, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to RCW 10.77.086(~~((4))~~) (7); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to RCW 10.77.020(3).

(b) The agency shall provide the prosecuting agency with all relevant information including but not limited to the following information:

(i) A complete copy of the institutional records compiled by the department of corrections relating to the person, and any such out-of-state department of corrections' records, if available;

(ii) A complete copy, if applicable, of any file compiled by the indeterminate sentence review board relating to the person;

(iii) All records relating to the psychological or psychiatric evaluation and/or treatment of the person;

(iv) A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

(v) A current mental health evaluation or mental health records review.

(c) The prosecuting agency has the authority, consistent with RCW 72.09.345(~~((3))~~) (4), to obtain all records relating to the person if the prosecuting agency deems such records are necessary to fulfill its duties under this chapter. The prosecuting agency may only disclose such records in the course of performing its duties pursuant to this chapter, unless otherwise authorized by law.

(d) The prosecuting agency has the authority to utilize the inquiry judge procedures of chapter 10.27 RCW prior to the filing of any action under this chapter to seek the issuance of compulsory process for the production of any records necessary for a determination of whether to seek the civil commitment of a person under this chapter. Any records obtained pursuant to this process may only be disclosed by the prosecuting agency in the course of performing its duties pursuant to this chapter, or unless otherwise authorized by law.

(2) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(3) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services.

Sec. 27. RCW 71.09.030 and 2009 c 409 s 3 are each amended to read as follows:

(1) A petition may be filed alleging that a person is a sexually violent predator and stating sufficient facts to support such allegation when it appears that: (a) A person who at any time previously has been convicted of a sexually violent offense is about to be released from total confinement; (b) a person found to have committed a sexually violent offense as a juvenile is about to be released from total confinement; (c) a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial is about to be released, or has been released, pursuant to RCW 10.77.086(~~((4))~~) (7); (d) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released, or has been released, pursuant to RCW 10.77.020(3), 10.77.110 (1) or (3), or 10.77.150; or (e) a person who at any time previously has been convicted of a sexually violent offense and has since been released from total confinement and has committed a recent overt act.

(2) The petition may be filed by:

(a) The prosecuting attorney of a county in which:

(i) The person has been charged or convicted with a sexually violent offense;

(ii) A recent overt act occurred involving a person covered under subsection (1)(e) of this section; or

(iii) The person committed a recent overt act, or was charged or convicted of a criminal offense that would qualify as a recent overt act, if the only sexually violent offense charge or conviction occurred in a jurisdiction other than Washington; or

(b) The attorney general, if requested by the county prosecuting attorney identified in (a) of this subsection. If the county prosecuting attorney requests that the attorney general file and prosecute a case under this chapter, then the county shall charge the attorney general only the fees, including filing and jury fees, that would be charged and paid by the county prosecuting attorney, if the county prosecuting attorney retained the case.

Sec. 28. RCW 71.09.060 and 2009 c 409 s 6 are each amended to read as follows:

(1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under RCW 71A.12.230 may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in RCW 71.09.020(~~((15)-(e))~~) (18)(c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to be or has been released pursuant to RCW 10.77.086(~~((4))~~) (7), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW 10.77.086(~~((4))~~) (7) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) Except as otherwise provided in this chapter, the state shall comply with RCW 10.77.220 while confining the person. During all court proceedings where the person is present, the person shall be detained in a secure facility. If the proceedings last more than one day, the person may be held in the county jail for the duration of the proceedings, except the person may be returned to the department's custody on weekends and court holidays if the court deems such a transfer feasible. The county shall be entitled to reimbursement for the cost of housing and transporting the person pursuant to rules adopted by the secretary. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or

regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter.

NEW SECTION. Sec. 29. Sections 6, 7, and 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 30. (1) Section 7 of this act expires when section 8 of this act takes effect.

(2) The department of social and health services shall provide written notice of the expiration date of section 7 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

NEW SECTION. Sec. 31. Section 13 of this act takes effect December 1, 2023.

NEW SECTION. Sec. 32. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Ryu; Schmick; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler; and Dye.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Connors; Couture; Rude; Sandlin; and Steele.

Referred to Committee on Rules for second reading

April 3, 2023

SSB 5453

Prime Sponsor, Law & Justice: Concerning female genital mutilation. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5454

Prime Sponsor, Ways & Means: Concerning industrial insurance coverage for posttraumatic stress disorders affecting registered nurses. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Labor & Workplace Standards.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 51.08.142 and 2020 c 234 s 1 are each amended to read as follows:

(1) Except as provided in ~~((subsection))~~ subsections (2) and (3) of this section, the department shall adopt a rule pursuant to chapter 34.05 RCW that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease in RCW 51.08.140.

(2)(a) Except as provided in (b) and (c) of this subsection, the rule adopted under subsection (1) of this section shall not apply to occupational disease claims resulting from posttraumatic stress disorders of firefighters as defined in RCW 41.26.030(17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030(19) (b), (c), and (e), and public safety telecommunicators who receive calls for assistance and dispatch emergency services.

(b) For firefighters as defined in RCW 41.26.030(17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030(19) (b), (c), and (e) hired after June 7, 2018, and public safety telecommunicators hired after June 11, 2020, (a) of this subsection only applies if the firefighter or law enforcement officer or public safety telecommunicator, as a condition of employment, has submitted to a psychological examination administered by a psychiatrist licensed in the state of Washington under chapter 18.71 RCW or a psychologist licensed in the state of Washington under chapter 18.83 RCW that ruled out the presence of posttraumatic stress disorder from preemployment exposures. If the employer does not provide the psychological examination, (a) of this subsection applies.

(c) Posttraumatic stress disorder for purposes of ~~((this subsection))~~ subsections (2) and (3) of this section is not considered an occupational disease if the disorder is directly attributed to

disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer.

(d) "Public safety telecommunicators" means individuals who receive and respond to telephone or other electronic requests for emergency assistance, such as law enforcement, fire, and medical services, and dispatch appropriate emergency responders.

(3)(a) Except as provided in this subsection, the rule adopted under subsection (1) of this section shall not apply to occupational disease claims resulting from posttraumatic stress disorders of direct care registered nurses as defined in section 2 of this act.

(b) The limitation in subsection (2)(c) of this section also applies to this subsection (3).

(c) This subsection (3) applies only to a direct care registered nurse who has posttraumatic stress disorder that develops or manifests itself after the individual has been employed on a fully compensated basis as a direct care registered nurse in Washington state for at least 90 consecutive days.

NEW SECTION. Sec. 2. A new section is added to chapter 51.32 RCW to read as follows:

(1) In the case of direct care registered nurses covered under this title who are employed on a fully compensated basis, there exists a prima facie presumption that posttraumatic stress disorder is an occupational disease under RCW 51.08.140. This section applies only to a direct care registered nurse who has posttraumatic stress disorder that develops or manifests itself after the individual has been employed on a fully compensated basis as a direct care registered nurse in Washington state for at least 90 consecutive days.

(2) The presumption may be rebutted by a preponderance of the evidence.

(3) The presumption extends to a claimant following termination of employment for a period of three calendar months for each year the claimant was a direct care registered nurse employed on a fully compensated basis, but may not extend more than 60 months following the last date of employment.

(4)(a) When a determination involving the presumption established under this section is appealed to the board of industrial insurance appeals and the final decision allows the claim for benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the claimant or his or her beneficiary by the opposing party.

(b) When determination involving the presumption established under this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the claimant or his or her beneficiary by the opposing party.

(c) When reasonable costs of the appeal must be paid by the department under this

section in a state fund case, the costs shall be paid from the accident fund and charged to the costs of the claim.

(5) For purposes of this section, "direct care registered nurse" means an individual licensed as a nurse under chapter 18.79 RCW who provides direct care to patients.

NEW SECTION. Sec. 3. This act takes effect January 1, 2024."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Sandlin; Schmick; and Steele.

MINORITY recommendation: Without recommendation. Signed by Representative Harris.

Referred to Committee on Rules for second reading

April 4, 2023

SB 5487

Prime Sponsor, Senator King: Concerning parking at rest areas. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.38.020 and 2019 c 436 s 1 are each amended to read as follows:

(1) Except where specifically authorized by the department, it is unlawful for any person or persons to stop, stand, or park any vehicle, including but not limited to trailers, campers, and motorcycles, for more than eight hours within a (~~twenty-four~~)²⁴ hour period, or for any person or persons to camp or to maintain a camp, tent, or other sleeping accommodation or facility, in any safety rest area within the limits of the right-of-way of interstate highways or other state highways or in other areas of state or interstate highways as designated in RCW 47.12.250. The department may also designate zones within a safety rest area with shorter parking time limits for the purposes of maximum efficiency and safety. Commercial vehicles may park up to an hour beyond federally mandated rest periods.

(2) Except where specifically authorized by the department, it is unlawful for any person or persons to stop, stand, or park any disabled vehicle, including but not limited to trailers, campers, and motorcycles, in any safety rest area for more than (~~forty-eight~~)⁴⁸ hours, after which time the vehicle is subject to mandatory impoundment under RCW 46.55.080(1).

(3) The department shall post appropriate signage (~~(consistent with RCW 46.55.070(1))~~) at all safety rest areas regarding the

parking time limits in this section. The signage shall be posted near each entrance and on the property in a clearly conspicuous and visible location to all who park on such property, and shall clearly indicate:

(a) When a vehicle may be impounded as an unauthorized vehicle; and

(b) A phone number for contacting the law enforcement agency or the department to locate the impounded vehicle.

(4) The Washington state patrol shall enforce this section consistent with RCW 46.55.080(1), and to the maximum extent practicable."

Correct the title.

Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; Mena; Orcutt; Ramel; Ramos; Taylor; Volz; Walsh and Wylie.

Referred to Committee on Rules for second reading

April 4, 2023

SB 5497 Prime Sponsor, Senator Wilson, L.:
Concerning medicaid expenditures. Reported
by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature intends to ensure that the medicaid program is operating under sound fiscal stewardship. This requires dedicated program integrity efforts focused on paying the right dollar amount to the right provider for the right reason. Strengthening program integrity efforts helps to ensure that every medicaid dollar stretches as far as possible for those insured through medicaid.

(2) The legislature finds that the health care authority is responsible for overseeing all of Washington's medicaid programs, including those administered by other state agencies. Effective oversight by the health care authority will advance the legislature's objective of ensuring that the right services are delivered to the right person at the right time with measurable outcomes.

Sec. 2. RCW 74.04.050 and 2011 1st sp.s. c 15 s 64 are each amended to read as follows:

(1) The department is designated as the single state agency to administer the following public assistance programs:

(a) Temporary assistance (~~(to~~ ~~{for})~~) for needy families;

(b) Child welfare services; and

(c) Any other programs of public assistance for which provision for federal grants or funds may from time to time be made, except as otherwise provided by law.

(2) The authority is hereby designated as the single state agency to administer the medical services programs established under chapter 74.09 RCW, including the state children's health insurance program, Titles XIX and XXI of the federal social security act of 1935, as amended. As the state's medicaid agency, the authority is responsible for providing reasonable oversight of all medicaid program integrity activities required by federal regulation. The authority shall establish and maintain effective internal control over any state agency that receives medicaid funding in compliance with federal regulation.

(3) The department and the authority are hereby empowered and authorized to cooperate in the administration of such federal laws, consistent with the public assistance laws of this state, as may be necessary to qualify for federal funds.

(4) The state hereby accepts and assents to all the present provisions of the federal law under which federal grants or funds, goods, commodities, and services are extended to the state for the support of programs referenced in this section, and to such additional legislation as may subsequently be enacted as is not inconsistent with the purposes of this title, authorizing public welfare and assistance activities. The provisions of this title shall be so administered as to conform with federal requirements with respect to eligibility for the receipt of federal grants or funds.

(5) The department and the authority shall periodically make application for federal grants or funds and submit such plans, reports and data, as are required by any act of congress as a condition precedent to the receipt of federal funds for such assistance. The department and the authority shall make and enforce such rules and regulations as shall be necessary to insure compliance with the terms and conditions of such federal grants or funds.

NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority shall provide administrative oversight for all funds received under the medical assistance program, as codified in Title XIX of the federal social security act, the state children's health insurance program, as codified in Title XXI of the federal social security act, and any other federal medicaid funding to ensure that:

(a) All funds are spent according to federal and state laws and regulations;

(b) Delivery of services aligns with federal statutes and regulations;

(c) Corrective action plans are put in place if expenditures or services do not align with federal requirements; and

(d) Sound fiscal stewardship of medicaid funding in all agencies where medicaid funding is provided.

(2) The authority shall develop a strategic plan and performance measures for medicaid program integrity. The strategic plan must include stated strategic goals, agreed-upon objectives, performance

measures, and a system to monitor progress and hold responsible parties accountable. In developing the strategic plan, the authority shall create a management information and reporting strategy with performance measures and management reports.

(3) The authority shall oversee the medicaid program resources of any state agency expending medicaid funding, including but not limited to:

(a) Regularly reviewing delegated work;

(b) Jointly reviewing required reports on terminated or sanctioned providers, compliance data, and application data;

(c) Requiring assurances that operational functions have been implemented;

(d) Reviewing audits performed on the sister state agency; and

(e) Assisting with risk assessments, setting goals, and developing policies and procedures.

(4) The authority shall develop and maintain a single, statewide medicaid fraud and abuse prevention plan consistent with the national medicaid fraud and abuse initiative or current federal best practice as recognized by the centers for medicare and medicaid services.

(5) The authority must follow best practices for identifying improper medicaid spending when implementing its program integrity activities, including but not limited to:

(a) Conducting risk assessments or evaluating leads with established risk factors;

(b) Relying on data analytics to generate leads;

(c) Conducting a preliminary review of incoming leads, which includes analyzing data about the lead and may include reviewing records such as billing histories;

(d) Determining the credibility of all allegations of potential fraud prior to referral to the state's medicaid fraud control unit;

(e) Analyzing all leads under review by the state's managed care organizations;

(f) Working with federally recognized experts that help state integrity programs improve their data analytics and identify potential fraud across medicare and medicaid such as unified program integrity contractors; and

(g) Maintaining a current fraud and abuse detection system.

NEW SECTION. Sec. 4. A new section is added to chapter 74.09 RCW to read as follows:

(1) Beginning January 1, 2024, the authority's contracts with managed care organizations must clearly detail each party's requirements for maintaining program integrity and the consequences the managed care organizations face if they do not meet the requirements. The contract must ensure the penalties are adequate to ensure compliance.

(2) The authority shall follow leading program integrity practices as recommended by the centers for medicare and medicaid services, including but not limited to:

(a) Monthly reporting and quarterly meetings with managed care organizations to

discuss program integrity issues and findings as well as trends in fraud and other improper payments;

(b) Financial penalties for failure to fulfill program integrity requirements, including liquidated damages and sanctions;

(c) Directly auditing providers and:

(i) Recovering overpayments from the providers; or

(ii) Assessing liquidated damages against the managed care organizations;

(d) Ensuring recoveries and liquidated damages resulting from overpayments are properly accounted for and applied to managed care encounters to ensure accurate future rate setting; and

(e) Ensuring all contracts with managed care organizations are updated as appropriate to reflect program integrity requirements."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

SSB 5499

Prime Sponsor, Health & Long Term Care: Concerning the multistate nurse licensure compact. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representative Fitzgibbon.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5502

Prime Sponsor, Ways & Means: Ensuring access to substance use disorder treatment. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Community Safety, Justice, & Reentry.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.733 and 2021 c 266 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, an offender may not participate in the graduated reentry program under this subsection unless he or she has served at

least six months in total confinement in a state correctional facility.

(i) An offender subject to (a) of this subsection may serve no more than the final five months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under (a) of this subsection may not be imposed for individuals subject to a deportation order, civil commitment, or the interstate compact for adult offender supervision under RCW 9.94A.745.

(b) For offenders who meet the requirements of (b)(iii) of this subsection, an offender may not participate in the graduated reentry program unless he or she has served at least four months in total confinement in a state correctional facility.

(i) An offender under this subsection (1)(b) may serve no more than the final 18 months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under this subsection (1)(b) may not be imposed for individuals subject to a deportation order or subject to the jurisdiction of the indeterminate sentence review board.

(iii) Home detention under this subsection (1)(b) may not be imposed for offenders currently serving a term of confinement for the following offenses:

(A) Any sex offense;

(B) Any violent offense; or

(C) Any crime against a person offense in accordance with the categorization of crimes against persons outlined in RCW 9.94A.411(2).

(2) The secretary of the department may transfer an offender from a department correctional facility to home detention in the community if it is determined that the graduated reentry program is an appropriate placement and must assist the offender's transition from confinement to the community.

(3) The department and its officers, agents, and employees are not liable for the acts of offenders participating in the graduated reentry program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(4)(a) All offenders placed on home detention as part of the graduated reentry program must provide an approved residence and living arrangement prior to transfer to home detention.

(b) The department may not transfer an offender to participate in the graduated reentry program until the department has conducted a comprehensive assessment for substance use disorder. If the offender is assessed to have a substance use disorder, the department shall assist the offender in enrolling in substance use disorder treatment services at the level deemed appropriate by the assessment. Offenders transferred to participate in the graduated reentry program must begin receiving substance use disorder treatment services as soon as practicable after transfer to avoid

any delays in treatment. Substance use disorder treatment services shall include, as deemed necessary by the assessment, access to medication-assisted treatment and counseling programs. Upon transfer to the graduated reentry program, when clinically appropriate, individuals must be provided with access to self-administered fentanyl testing supplies and medications designed to reverse the effects of opioid overdose.

(5) While in the community on home detention as part of the graduated reentry program, the department must:

(a) Require the offender to be placed on electronic home monitoring;

(b) Require the offender to participate in programming and treatment that the department shall assign based on an offender's assessed need; and

(c) Assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements.

(6) The department retains the authority to return any offender serving partial confinement in the graduated reentry program to total confinement for any reason including, but not limited to, the offender's noncompliance with any sentence requirement.

(7) The department may issue rental vouchers for a period not to exceed six months for those transferring to partial confinement under this section if an approved address cannot be obtained without the assistance of a voucher.

(8) In the selection of offenders to participate in the graduated reentry program, and in setting, modifying, and enforcing the requirements of the graduated reentry program, the department is deemed to be performing a quasi-judicial function.

(9) The department shall publish a monthly report on its website with the number of offenders who were transferred during the month to home detention as part of the graduated reentry program. The department shall submit an annual report by December 1st to the appropriate committees of the legislature with the number of offenders who were transferred to home detention as part of the graduated reentry program during the prior year.

(10)(a) Beginning July 1, 2023, the following data must be collected and posted to the department's website on a monthly basis:

(i) The number of offenders who were transferred to the graduated reentry program who were assessed to have a substance use disorder during the prior calendar month; and

(ii) The number of offenders in the graduated reentry program who received during the prior 12 months:

(A) Outpatient substance use disorder treatment;

(B) Inpatient substance use disorder treatment; and

(C) Both outpatient and inpatient substance use disorder treatment.

(b) Beginning July 1, 2023, the health care authority must report monthly to the department on the number of offenders in the graduated reentry program who received substance use disorder outpatient treatment,

while in the community, during the prior 12 months.

(11) The department must share data with the health care authority on offenders participating in the graduated reentry program.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

SSB 5504 Prime Sponsor, Transportation: Addressing open motor vehicle safety recalls. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This act requires an official motor vehicle inspection facility or licensed private inspection facility to provide written notice to the owner of a motor vehicle being inspected for all open safety recalls applicable to the motor vehicle at the time the motor vehicle is inspected. The recall notice must include a description of each open safety recall and a statement that each open safety recall may be repaired by certain motor vehicle dealers at no cost to the owner, except in certain circumstances. This act requires the department of licensing to provide written notice to the owner of a motor vehicle, at the time a vehicle is registered or upon mailing a motor vehicle's registration renewal notice, of all open safety recalls applicable to the motor vehicle. The recall notice is to include a statement that each open safety recall may be repaired by certain motor vehicle dealers at no cost to the owner, except in certain circumstances.

Nothing in this act may alter the liability of any motor vehicle manufacturer or motor vehicle dealer approved by a manufacturer to repair an open safety recall.

NEW SECTION. Sec. 2. A new section is added to chapter 46.32 RCW to read as follows:

(1) During a motor vehicle inspection, an official inspection facility, or licensed private inspection facility, shall check

information made available by the national highway traffic safety administration to determine whether the motor vehicle being inspected is subject to an open safety recall. If the vehicle is subject to one or more open safety recalls, the official inspection facility or licensed private inspection facility, shall provide the owner of the motor vehicle, at the time of inspection, written notice of all open safety recalls applicable to the motor vehicle. The recall notice must include the following:

(a) A description of each open safety recall; and

(b) A statement that each open safety recall may be repaired by a motor vehicle dealer approved by the manufacturer of the motor vehicle at no cost to the owner of the motor vehicle, except as provided in 49 U.S.C. Sec. 30120.

(2) Nothing in this section alters the liability of any motor vehicle manufacturer or motor vehicle dealer approved by the manufacturer to repair an open safety recall.

(3) (a) The chief of the Washington state patrol and the chief of the Washington state patrol's designees, for the purposes of discharging their duties pursuant to this act are not liable for any act or omission related to the provision of an open safety recall notice and are immune from any related civil suit or action.

(b) For the purposes of discharging their duties pursuant to this act, a private inspection facility or its owner and employees are not liable to any person for any act or omission related to the open safety recall notice provided pursuant to this section, except for cases of gross negligence.

(4) For the purposes of this section, "open safety recall" means a safety-related recall, for which notification by a manufacturer is required to be provided under 49 U.S.C. Secs. 30118 and 30119, that necessitates repairs or modifications to a motor vehicle by an authorized motor vehicle dealer. "Open safety recall" does not include: Recalls related to defects or failures to comply with requirements relating to labeling or notification in a motor vehicle's owner's manual; or recalls where the remedy is for the manufacturer to repurchase the motor vehicle or otherwise provide financial compensation to the owner of the motor vehicle.

NEW SECTION. Sec. 3. A new section is added to chapter 46.16A RCW to read as follows:

(1) (a) The department shall, before issuing a motor vehicle registration or mailing a motor vehicle registration renewal notice, check information made available by the national highway traffic safety administration to determine whether the motor vehicle is subject to an open safety recall. For a vehicle that is subject to one or more open safety recalls, the department shall provide the owner of the motor vehicle written notice of all open safety recalls applicable to the motor vehicle. The recall notice must be provided at the time the

vehicle is registered as well as be included in any registration renewal notices sent to consumers by the department. The renewal notice must include a statement that the vehicle has one or more open safety recalls that may be repaired by a motor vehicle dealer approved by the manufacturer of the motor vehicle at no cost to the owner of the motor vehicle, except as provided in 49 U.S.C. Sec. 30120.

(b) The department shall include as part of any reminder notices sent to consumers before the expiration of their registration a notice that their vehicle has one or more open safety recalls and that each open safety recall may be repaired by a motor vehicle dealer approved by the manufacturer of the motor vehicle at no cost to the owner of the motor vehicle, except as provided in 49 U.S.C. Sec. 30120.

(2) Nothing in this section alters the liability of any motor vehicle manufacturer or motor vehicle dealer approved by the manufacturer to repair an open safety recall.

(3) The director and director's designees including, pursuant to RCW 46.01.140, county auditors, agents, and subagents, for the purposes of discharging their duties pursuant to this act are not liable for any act or omission related to the provision of an open safety recall notice and are immune from any related civil suit or action, consistent with RCW 46.01.310.

(4) For the purposes of this section, "open safety recall" means a safety-related recall, for which notification by a manufacturer is required to be provided under 49 U.S.C. Secs. 30118 and 30119, that necessitates repairs or modifications to a motor vehicle by an authorized motor vehicle dealer. "Open safety recall" does not include: Recalls related to defects or failures to comply with requirements relating to labeling or notification in a motor vehicle's owner's manual; or recalls where the remedy is for the manufacturer to repurchase the motor vehicle or otherwise provide financial compensation to the owner of the motor vehicle.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2024."

Correct the title.

Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; Mena; Orcutt; Ramel; Ramos; Taylor; Volz; Walsh and Wylie.

Referred to Committee on Rules for second reading

April 4, 2023

ESSB 5515 Prime Sponsor, Human Services: Protecting children from child abuse and neglect. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Human Services, Youth, & Early Learning.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5518 Prime Sponsor, Ways & Means: Concerning cybersecurity. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

SSB 5523 Prime Sponsor, Higher Education & Workforce Development: Addressing the forensic pathologist shortage. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** Forensic pathologists are medically trained doctors who perform autopsies. For the last decade, there has been a persistent shortage in forensic pathologists both locally and nationally and this problem has only grown worse. It is the intent of the legislature to incentivize people to enter the profession by alleviating the student loan burden for medically trained forensic pathologists.

Sec. 2. RCW 28B.115.020 and 2022 c 276 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Approved nursing program" means a nursing educational program that leads to a degree or licensure in nursing that is approved by the nursing care quality assurance commission under RCW 18.79.070 and is located at an institution of higher education that is authorized to participate in state financial aid programs under chapter 28B.92 RCW.

(2) "Council" means the Washington state forensic investigations council created in chapter 43.103 RCW.

(3) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington under RCW 18.130.040 or by the pharmacy quality assurance commission under

chapter 18.64 RCW and designated by the department in RCW 28B.115.070 as a profession having shortages of credentialed health care professionals in the state.

~~((3))~~ (4) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession under RCW 18.130.040 or by the pharmacy quality assurance commission under chapter 18.64 RCW.

~~((4))~~ (5) "Department" means the state department of health.

~~((5))~~ (6) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

~~((6))~~ (7) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the office.

~~((7))~~ (8) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

~~((8))~~ (9) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area, an underserved behavioral health area, or as a nurse educator in the state of Washington in lieu of monetary repayment.

~~((9))~~ (10) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas as provided for in RCW 28B.115.070. In making health professional shortage area designations in the state the department may be guided by applicable federal standards for "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

~~((10))~~ (11) "Identified shortage areas" means those areas where qualified forensic pathologists are in short supply because of geographic maldistribution or where vacancies exist that may compromise death investigations. The council, with assistance from the department, shall determine shortage areas.

(12) "Loan repayment" means a loan that is paid in full or in part if the participant:

(a) Renders health care services in a health professional shortage area or an underserved behavioral health area as defined by the department; ~~((e*))~~

(b) Teaches as a nurse educator for an approved nursing program; or

(c) Renders services as a qualified board-certified forensic pathologist as determined by the department.

~~((11))~~ (13) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

~~((12))~~ (14) "Nurse educator" means an individual with an advanced nursing degree beyond a bachelor's degree that teaches nursing curriculum and is a faculty member for an approved nursing program.

~~((13))~~ (15) "Office" means the office of student financial assistance.

~~((14))~~ (16) "Participant" means:

(a) A credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an underserved behavioral health area;

(b) A nurse educator teaching in an approved nursing program; ~~((e*))~~

(c) An eligible student who has received a scholarship under this program; or

(d) A board-certified forensic pathologist who has commenced working in or is committed to working in identified shortage areas in the state of Washington for the pathologist's required service obligation.

~~((15))~~ (17) "Required service obligation" means an obligation by the participant to:

(a) Provide health care services in a health professional shortage area or an underserved behavioral health area for a period to be established as provided for in this chapter; ~~((e*))~~

(b) Teach as a nurse educator for a period to be established as provided for in this chapter; or

(c) Provide services as a board-certified forensic pathologist in identified shortage areas as determined by the council.

~~((16))~~ (18) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and pose a threat to public health and safety. The department shall designate rural physician shortage areas.

~~((17))~~ (19) "Satisfied" means paid-in-full.

~~((18))~~ (20) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care services in a health professional shortage area or an underserved behavioral health area.

~~((19))~~ (21) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments.

~~((20))~~ (22) "Underserved behavioral health area" means a geographic area, population, or facility that has a shortage of health care professionals providing behavioral health services, as determined by the department.

Sec. 3. RCW 28B.115.030 and 2022 c 276 s 2 are each amended to read as follows:

The Washington health corps is the state's initiative to encourage health care professionals to work in underserved communities. In exchange for service, the health care professional receives assistance with higher education, in the form of loan repayment or a conditional scholarship. The Washington health corps consists of the health professional loan repayment and scholarship program, the behavioral health loan repayment program, ~~((and))~~ the nurse educator loan repayment program, and the forensic pathology loan repayment program.

(1) The health professional loan repayment and scholarship program is established for credentialed health professionals and residents serving in health professional shortage areas.

(2) The behavioral health loan repayment program is established for credentialed health professionals serving in underserved behavioral health areas.

(3) The nurse educator loan repayment program is established for nurse educators teaching for approved nursing programs.

(4) The forensic pathology loan repayment program is established for board-certified forensic pathologists providing services for counties in identified shortage areas.

(5) The office is the administrator of the programs under the Washington health corps. In administering the programs, the office shall:

(a)(i) Select credentialed health care professionals and residents to participate in the loan repayment portion and in the scholarship portion of the health professional loan repayment and scholarship program;

(ii) Select credentialed health care participants to participate in the behavioral health loan repayment program; ~~((and))~~

(iii) Select nurse educators to participate in the nurse educator loan repayment program; and

(iv) Select board-certified forensic pathologists to participate in the forensic pathology loan repayment program;

(b) Adopt rules and develop guidelines to administer the programs;

(c) Collect and manage repayments from participants who do not meet their service obligations under this chapter;

(d) Publicize the program, particularly to maximize participation among individuals in shortage and underserved areas and among populations expected to experience the greatest growth in the workforce;

(e) Solicit and accept grants and donations from public and private sources for the programs;

(f) Use a competitive procurement to contract with a fund-raiser to solicit and accept grants and donations from private sources for the programs. The fund-raiser shall be paid on a contingency fee basis on a sliding scale but must not exceed ~~((fifteen))~~ 15 percent of the total amount raised for the programs each year. The fund-raiser shall not be a registered state lobbyist; and

(g) Develop criteria for a contract for service in lieu of the service obligation where appropriate, that may be a combination of service and payment.

Sec. 4. RCW 28B.115.040 and 2019 c 302 s 4 are each amended to read as follows:

(1) The department may provide technical assistance to rural communities desiring to become sponsoring communities for the purposes of identification of prospective students for the health professional loan repayment and scholarship program, assisting prospective students to apply to an eligible education and training program, making formal agreements with prospective students to provide credentialed health care services in the community, forming agreements between rural communities in a service area to share credentialed health care professionals, and fulfilling any matching requirements.

(2) The department, in consultation with the council and other pertinent stakeholders, may provide technical assistance to counties desiring to become sponsoring communities for the purposes of identification of prospective students for the forensic pathology loan repayment program, assisting prospective students to apply to an eligible education and training program, making formal agreements with prospective students to provide services as a board-certified forensic pathologist, forming agreements between rural and underserved counties in a service area to share credentialed forensic pathology professionals, and fulfilling any matching requirements.

(3) From the amounts appropriated to the department, the department shall enter into a contract for a two-year marketing plan with the Washington association of coroners and medical examiners for the sole purpose of marketing Washington state to potential board-certified forensic pathologists. The marketing plan must include, but is not limited to, a focus on rural and underserved counties. Payment for administrative expenses may not exceed two percent of the appropriated funds.

Sec. 5. RCW 28B.115.050 and 2022 c 276 s 3 are each amended to read as follows:

The office shall establish a planning committee to assist it in developing criteria for the selection of participants for the Washington health corps program. The office shall include on the planning committee representatives of the department, the department of social and health services, appropriate representatives from health care facilities, provider groups, consumers, the state board for community and technical colleges, the superintendent of public instruction, institutions of higher education, representatives from the behavioral health and public health fields, the council, and other appropriate public and private agencies and organizations. The criteria may require that some of the participants meet the definition of financial need under RCW 28B.92.030.

Sec. 6. RCW 28B.115.070 and 2022 c 276 s 4 are each amended to read as follows:

(1) After June 1, 1992, the department, in consultation with the office and the department of social and health services, shall:

(a) Determine eligible credentialed health care professions for the purposes of the health professional loan repayment and scholarship program and the behavioral health loan repayment program authorized by this chapter. Eligibility shall be based upon an assessment that determines that there is a shortage or insufficient availability of a credentialed profession so as to jeopardize patient care and pose a threat to the public health and safety. The department shall consider the relative degree of shortages among professions when determining eligibility. The department may add or remove professions from eligibility based upon the determination that a profession is no longer in shortage. Should a profession no longer be eligible, participants or eligible students who have received scholarships shall be eligible to continue to receive scholarships or loan repayments until they are no longer eligible or until their service obligation has been completed;

(b) Determine health professional shortage areas for each of the eligible credentialed health care professions; and

(c) Determine underserved behavioral health areas for each of the eligible credentialed health care professions.

(2) The office, in consultation with the department, shall determine selection criteria for nurse educators and approved nursing programs.

(3) The office, in consultation with the department and the council, shall determine selection criteria for board-certified forensic pathologists.

Sec. 7. RCW 28B.115.080 and 2022 c 276 s 5 are each amended to read as follows:

(1) After June 1, 1992, the office, in consultation with the department and the department of social and health services, shall:

~~((1-))~~ (a) Establish the annual award amount for each credentialed health care profession which shall be based upon an assessment of reasonable annual eligible expenses involved in training and education for each credentialed health care profession for both the health professional loan repayment and scholarship program and the behavioral health loan repayment program. The annual award amount may be established at a level less than annual eligible expenses. The annual award amount shall be established by the office for each eligible health profession. The awards shall not be paid for more than a maximum of five years per individual;

~~((2-))~~ (b) Determine any scholarship awards for prospective physicians in such a manner to require the recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural

area. The office may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

~~((3-))~~ (c) Establish the required service obligation for each credentialed health care profession, which shall be no less than three years or no more than five years, for the health professional loan repayment and scholarship program and the behavioral health loan repayment program. The required service obligation may be based upon the amount of the scholarship or loan repayment award such that higher awards involve longer service obligations on behalf of the participant;

~~((4-))~~ (d) Establish the annual award amount and the required service obligation for nurse educators participating in the nurse educator loan repayment program. The annual award amount shall be based upon an assessment of reasonable annual eligible expenses involved in training and education. The awards shall not be paid for more than a maximum of five years per individual. The required service obligation shall be no less than three years or no more than five years. The required service obligation may be based upon the amount of the loan repayment award such that higher awards involve longer service obligations on behalf of the participant;

~~((5-))~~ (e) Determine eligible education and training programs for purposes of the scholarship portion of the health professional loan repayment and scholarship program; and

~~((6-))~~ (f) Honor loan repayment and scholarship contract terms negotiated between the office and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under this chapter or chapter 70.180 RCW.

(2) The department and the council, with the office, shall establish the annual loan repayment amount for each eligible board-certified forensic pathologist, based upon an assessment of reasonable eligible expenses involved in training and education up to \$25,000 annually. The awards may not be paid for more than a total of four years per participant. The required service obligation must be four years. The annual award amount shall be established by the office.

Sec. 8. RCW 28B.115.110 and 2022 c 276 s 7 are each amended to read as follows:

Participants in the Washington health corps who are awarded loan repayments shall receive payment for the purpose of repaying educational loans secured while attending a program of health professional training which led to a credential as a credentialed health professional in the state of Washington.

(1) Participants shall agree to meet the required service obligation.

(2) Repayment shall be limited to eligible educational and living expenses as determined by the office and shall include principal and interest.

(3) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the office access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(4) Repayment of loans established pursuant to the Washington health corps shall begin no later than ~~((ninety))~~ 90 days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the office, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area, an underserved behavioral health area, ~~((or))~~ as a nurse educator at an approved nursing program after the required service obligation when eligibility discontinues, or as a board-certified forensic pathologist in an identified shortage area, whichever comes first.

(5) Should the participant discontinue service in a health professional shortage area, an underserved behavioral health area, ~~((or))~~ as a nurse educator at an approved nursing program, or as a board-certified forensic pathologist in an identified shortage area, payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(6) Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obligated to repay to the program an amount equal to the unsatisfied portion of the service obligation, or the total amount paid by the program on their behalf, whichever is less. This amount is due and payable immediately. Participants who are unable to pay the full amount due shall enter into a payment arrangement with the office, including an arrangement for payment of interest. The maximum period for repayment is ~~((ten))~~ 10 years. The office shall determine the applicability of this subsection. The interest rate shall be determined by the office and be established by rule.

(7) The office is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before completion of the required service obligation. The office shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

(8) The office shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

(9) The office shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017.

(10) The office shall establish an appeal process by rule.

Sec. 9. RCW 28B.115.130 and 2022 c 276 s 8 are each amended to read as follows:

(1) Any funds appropriated by the legislature for the health professional loan repayment and scholarship program ~~((and))~~, the nurse educator loan repayment program, the forensic pathology loan repayment program, or any other public or private funds intended for loan repayments or scholarships under these programs shall be placed in the account created by this section.

(2) The health professional loan repayment and scholarship program fund is created in custody of the state treasurer. All receipts from the program shall be deposited into the fund. Only the office, or its designee, may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

NEW SECTION.

Sec. 10. (1) The department of health shall contract with the Washington association of coroners and medical examiners to: Conduct a study of the critical shortage of board-certified forensic pathologists and recommend to the legislature what steps the state can take to foster a robust forensic pathology community. The study must cover issues related to Conrad 30 J-1 visa waivers and measures to encourage enrollment in the University of Washington and Washington State University forensic pathology residency programs. This study must also include recommendations on how to create two new forensic pathology fellow slots, one in conjunction with the University of Washington and one in conjunction with Washington State University. The Washington association of coroners and medical examiners shall directly report its findings and recommendations to the governor and the appropriate committees of the legislature by October 1, 2024.

(2) This section expires August 1, 2025.

Sec. 11. RCW 68.50.104 and 2021 c 127 s 8 are each amended to read as follows:

(1) The cost of autopsy shall be borne by the county in which the autopsy is performed, except when requested by the department of labor and industries, in which case, the department shall bear the cost of such autopsy.

(2)(a) Except as provided in (b) of this subsection, when the county bears the cost of an autopsy, it shall be reimbursed from the death investigations account, established by RCW 43.79.445, as follows:

(i) Up to ~~((forty))~~ 40 percent of the cost of contracting for the services of a pathologist to perform an autopsy;

(ii) Up to 30 percent of the salary of pathologists who are primarily engaged in performing autopsies and are (A) county coroners or county medical examiners, or (B) employees of a county coroner or county medical examiner; ~~((and))~~

(iii) (~~One hundred~~) 100 percent of the cost of autopsies conducted under RCW 70.54.450; and

(iv) Up to 40 percent of the cost of transportation of remains to and from facilities accredited pursuant to RCW 36.24.210 for the purpose of autopsy services.

(b) When the county bears the cost of an autopsy of a child under the age of three whose death was sudden and unexplained, the county shall be reimbursed for the expenses of the autopsy when the death scene investigation and the autopsy have been conducted under RCW 43.103.100 (4) and (5), and the autopsy has been done at a facility designed for the performance of autopsies.

(3) Payments from the account shall be made pursuant to biennial appropriation: PROVIDED, That no county may reduce funds appropriated for this purpose below 1983 budgeted levels.

(4) Where the county coroner's office or county medical examiner's office is not accredited pursuant to RCW 36.24.210, or a coroner, medical examiner, or other medicolegal investigative employee is not certified as required by RCW 36.24.205 and 43.101.480, the state treasurer's office shall withhold 25 percent of autopsy reimbursement funds until accreditation under RCW 36.24.210 or compliance with RCW 36.24.205 and 43.101.480 is achieved."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

SB 5531

Prime Sponsor, Senator King: Concerning special use permits for milk product haulers. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Goehner; Griffey; Hackney; Klicker; Mena; Orcutt; Ramel; Ramos; Taylor; Volz; Walsh and Wylie.

MINORITY recommendation: Do not pass. Signed by Representative Berry.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5532

Prime Sponsor, Ways & Means: Providing enhanced payment to low volume, small rural hospitals. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that promoting a financially viable health care system in all parts of the state is a critical interest. The federal centers for medicare and medicaid services has recognized the crucial role hospitals play in providing care in rural areas by creating the sole community hospital program, which allows certain small rural hospitals to receive enhanced payments for medicare services. The state of Washington has created a similar program based on the federal criteria. The legislature further finds that some small, rural, low volume hospitals provide vital services to the communities they serve, but are not eligible for the federal or state programs. The legislature therefore finds that creating a similar reimbursement system for the state's medicaid program for small, rural, low volume hospitals will promote the long-term financial viability of the rural health care system in those communities.

Sec. 2. RCW 74.09.5225 and 2017 c 198 s 1 are each amended to read as follows:

(1) Payments for recipients eligible for medical assistance programs under this chapter for services provided by hospitals, regardless of the beneficiary's managed care enrollment status, shall be made based on allowable costs incurred during the year, when services are provided by a rural hospital certified by the centers for medicare and medicaid services as a critical access hospital, unless the critical access hospital is participating in the Washington rural health access preservation pilot described in subsection (2)(b) of this section. Any additional payments made by the authority for the healthy options program shall be no more than the additional amounts per service paid under this section for other medical assistance programs.

(2)(a) Beginning on July 24, 2005, except as provided in (b) of this subsection, a moratorium shall be placed on additional hospital participation in critical access hospital payments under this section. However, rural hospitals that applied for certification to the centers for medicare and medicaid services prior to January 1, 2005, but have not yet completed the process or have not yet been approved for certification, remain eligible for medical assistance payments under this section.

(b)(i) The purpose of the Washington rural health access preservation pilot is to develop an alternative service and payment system to the critical access hospital authorized under section 1820 of the social security act to sustain essential services in rural communities.

(ii) For the purposes of state law, any rural hospital approved by the department of health for participation in critical access hospital payments under this section that participates in the Washington rural health access preservation pilot identified by the state office of rural health and ceases to participate in critical access hospital

payments may renew participation in critical access hospital associated payment methodologies under this section at any time.

(iii) The Washington rural health access preservation pilot is subject to the following requirements:

(A) In the pilot formation or development, the department of health, health care authority, and Washington state hospital association will identify goals for the pilot project before any hospital joins the pilot project;

(B) Participation in the pilot is optional and no hospital may be required to join the pilot;

(C) Before a hospital enters the pilot program, the health care authority must provide information to the hospital regarding how the hospital could end its participation in the pilot if the pilot is not working in its community;

(D) Payments for services delivered by public health care service districts participating in the Washington rural health access preservation pilot to recipients eligible for medical assistance programs under this chapter must be based on an alternative, value-based payment methodology established by the authority. Subject to the availability of amounts appropriated for this specific purpose, the payment methodology must provide sufficient funding to sustain essential services in the areas served, including but not limited to emergency and primary care services. The methodology must adjust payment amounts based on measures of quality and value, rather than volume. As part of the pilot, the health care authority shall encourage additional payers to use the adopted payment methodology for services delivered by the pilot participants to individuals insured by those payers;

(E) The department of health, health care authority, and Washington state hospital association will report interim progress to the legislature no later than December 1, 2018, and will report on the results of the pilot no later than six months following the conclusion of the pilot. The reports will describe any policy changes identified during the course of the pilot that would support small critical access hospitals; and

(F) Funds appropriated for the Washington rural health access preservation pilot will be used to help participating hospitals transition to a new payment methodology and will not extend beyond the anticipated three-year pilot period.

(3)(a) Beginning January 1, 2015, payments for recipients eligible for medical assistance programs under this chapter for services provided by a hospital, regardless of the beneficiary's managed care enrollment status, shall be increased to one hundred twenty-five percent of the hospital's fee-for-service rates, when services are provided by a rural hospital that:

(i) Was certified by the centers for medicare and medicaid services as a sole community hospital as of January 1, 2013;

(ii) Had a level III adult trauma service designation from the department of health as of January 1, 2014;

(iii) Had less than one hundred fifty acute care licensed beds in fiscal year 2011; and

(iv) Is owned and operated by the state or a political subdivision.

(b) The enhanced payment rates under this subsection shall be considered the hospital's medicaid payment rate for purposes of any other state or private programs that pay hospitals according to medicaid payment rates.

(c) Hospitals participating in the certified public expenditures program may not receive the increased reimbursement rates provided in this subsection (3) for inpatient services.

(4) Beginning July 1, 2024, through December 31, 2028, payments for recipients eligible for medical assistance programs under this chapter for acute care services provided by a hospital, regardless of the beneficiary's managed care enrollment status, shall be increased to 120 percent of the hospital's fee-for-service rate for inpatient services and 200 percent of the hospital's fee-for-service rate for outpatient services, when services are provided by a hospital that:

(a) Is not currently designated as a critical access hospital, and does not meet current federal eligibility requirements for designation as a critical access hospital;

(b) Has medicaid inpatient days greater than 50 percent of all hospital inpatient days as reported on the hospital's most recently filed medicare cost report with the state; and

(c) Is located on the land of a federally recognized Indian tribe.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

NEW SECTION. Sec. 4. (1) This act expires on the date that the federal centers for medicare and medicaid services approves the hospital safety net program as required by RCW 74.60.150(1)(a), including section 4(3)(e), chapter . . . (Substitute House Bill No. 1850 (hospital safety net assessment)), Laws of 2023.

(2) The health care authority must provide written notice of the expiration date of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the authority.

NEW SECTION. Sec. 5. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary,

Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

ESB 5534 Prime Sponsor, Senator Randall: Concerning workforce education investment accountability and oversight board staffing changes. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

E2SSB 5536 Prime Sponsor, Ways & Means: Concerning controlled substances, counterfeit substances, and legend drug possession and treatment. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Community Safety, Justice, & Reentry.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that substance use disorder is a treatable brain disease from which people can and do recover. When individuals in active addiction are provided with access to quality outreach, treatment, and recovery support services, recovery is not only possible, but probable. Solutions to the addiction crisis must not only address criminal legal responses, but must be data-driven and evidence-based, and must represent public health best practices, working directly with people who use drugs to prevent overdose and infectious disease transmission, and improve the physical, mental, and social well-being of those served. The state must follow principles of harm reduction, comprising practical strategies aimed at reducing negative consequences associated with drug use, including safer use of supplies as well as care settings, staffing, and interactions that are person-centered, supportive, and welcoming.

The legislature recognizes that substance use disorder is commonly treated in a variety of settings, including primary care, addiction medicine, mental health agencies, and substance use disorder treatment providers. Because medications such as buprenorphine and methadone are the clinical best practice for the treatment of opioid

use disorder, individuals seeking treatment for addiction to heroin, fentanyl, and other opioids frequently seek recovery via primary care, addiction medicine, and opioid treatment programs.

The legislature finds that the recommendations of the substance use recovery services advisory committee reflect diligent work by individuals with a range of professional and personal experience, who brought that experience to the committee, and whose expertise is reflected in the recommendations.

Part I - Prohibiting Knowing Possession of a Controlled Substance, Counterfeit Substance, or Legend Drug

Sec. 2. RCW 69.50.4011 and 2003 c 53 s 332 are each amended to read as follows:

(1) Except as authorized by this chapter, it is unlawful for any person to ~~((create, deliver, or possess a counterfeit substance))~~:

(a) Create or deliver a counterfeit substance;

(b) Knowingly possess a counterfeit substance; or

(c) Knowingly possess and use a counterfeit substance in a public place by injection, inhalation, ingestion, or any other means.

(2) Any person who violates subsection (1)(a) of this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ~~((ten))10~~ years, fined not more than ~~((twenty-five thousand dollars))\$25,000~~, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than ~~((ten))10~~ years, fined not more than ~~((twenty-five thousand dollars))\$25,000~~, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3)(a) A violation of subsection (1)(b) or (c) of this section is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services through the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

(b) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for

receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(c) Upon arraignment for a violation of subsection (1)(b) or (c) of this section, the court shall determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 of this act.

(d) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

Sec. 3. RCW 69.50.4013 and 2022 c 16 s 86 are each amended to read as follows:

(1) ~~((It))~~ Except as otherwise authorized by this chapter, it is unlawful for any person to:

(a) Knowingly possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice (~~(, or except as otherwise authorized by this chapter))~~; or

(b) Knowingly possess and use a controlled substance in a public place by injection, inhalation, ingestion, or any other means, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

(2)(a) Except as provided in RCW 69.50.4014 or 69.50.445, ~~((any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW))~~ a violation of subsection (1)(a) or (b) of this section is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services through the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

(b) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(c) Upon arraignment for a violation of subsection (1)(a) or (b) of this section, the court shall determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 of this act.

(3)(a) The possession, by a person ~~((twenty-one))~~²¹ years of age or older, of useable cannabis, cannabis concentrates, or cannabis-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

(4)(a) The delivery by a person ~~((twenty-one))~~²¹ years of age or older to one or more persons ~~((twenty-one))~~²¹ years of age or older, during a single ~~((twenty-four))~~²⁴ hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following cannabis products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

(i) One-half ounce of useable cannabis;

(ii) Eight ounces of cannabis-infused product in solid form;

(iii) ~~((Thirty-six))~~³⁶ ounces of cannabis-infused product in liquid form; or

(iv) Three and one-half grams of cannabis concentrates.

(b) The act of delivering cannabis or a cannabis product as authorized under this subsection (4) must meet one of the following requirements:

(i) The delivery must be done in a location outside of the view of general public and in a nonpublic place; or

(ii) The cannabis or cannabis product must be in the original packaging as purchased from the cannabis retailer.

(5) No person under ~~((twenty-one))~~²¹ years of age may ~~((possess,))~~ manufacture, sell, ~~((or))~~ distribute, or knowingly possess cannabis, cannabis-infused products, or cannabis concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

(6) The possession by a qualifying patient or designated provider of cannabis concentrates, useable cannabis, cannabis-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

(7) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

Sec. 4. RCW 69.50.4014 and 2022 c 16 s 88 are each amended to read as follows:

(1) Except as provided in RCW 69.50.401(2)(c) or as otherwise authorized by this chapter, any person found guilty of knowing possession of ~~((forty))~~⁴⁰ grams or less of cannabis is guilty of a misdemeanor.

The prosecutor is encouraged to divert such cases for assessment, treatment, or other services through the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

(2) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(3) Upon arraignment for violation of this section, the court shall determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 of this act.

Sec. 5. RCW 69.41.030 and 2020 c 80 s 41 are each amended to read as follows:

(1) It shall be unlawful for any person to sell ~~(r)~~ or deliver any legend drug, or knowingly possess any legend drug, or knowingly possess and use any legend drug in a public place by injection, inhalation, ingestion, or any other means, except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered

nurse practitioner, a licensed physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving knowing possession is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(c) A violation of this section involving knowing possession and use in a public place is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services through the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

(d) In lieu of jail booking and referral to the prosecutor for a violation of this section involving knowing possession, or knowing possession and use in a public place, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(e) Upon arraignment for a violation of this section involving knowing possession, or knowing possession and use in a public place, the court shall determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 of this act.

(3) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

Sec. 6. RCW 69.50.509 and 1987 c 202 s 228 are each amended to read as follows:

If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior court, district court, or municipal court that there is probable cause to believe that any controlled substance is being used, manufactured, sold, bartered, exchanged, administered, dispensed, delivered, distributed, produced, knowingly possessed, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any law enforcement officer of the state, commanding him or her to search the premises designated and described in such complaint and warrant, and to seize all controlled substances there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, administering, dispensing, delivering, distributing, producing, possessing, giving away, furnishing or otherwise disposing of such controlled substances, and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. The provisions of RCW 10.31.030 as now or hereafter amended shall apply to actions taken pursuant to this chapter.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.43 RCW to read as follows:

Subject to the availability of funds appropriated for this specific purpose, the Washington state patrol bureau of forensic laboratory services shall aim to complete the necessary analysis for any evidence submitted for a suspected violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) within 45 days of receipt of the request for analysis.

The Washington state patrol bureau of forensic laboratory services' failure to comply with this section shall not constitute grounds for dismissal of a criminal charge.

Part II - Relating to Drug Paraphernalia

Sec. 8. RCW 69.50.4121 and 2022 c 16 s 92 are each amended to read as follows:

(1) Every person who sells (~~or gives,~~) or permits to be sold (~~or given~~) to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting,

manufacturing, compounding, converting, producing, processing, preparing, (~~testing, analyzing,~~) packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than cannabis. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cocaine into the human body, such as:

- (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- (b) Water pipes;
- (c) Carburetion tubes and devices;
- (d) Smoking and carburetion masks;
- (e) Miniature cocaine spoons and cocaine vials;
- (f) Chamber pipes;
- (g) Carburetor pipes;
- (h) Electric pipes;
- (i) Air-driven pipes; and
- (j) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits (~~legal~~) distribution (~~of injection~~) or use of public health supplies including, but not limited to, syringe equipment, smoking equipment, or drug testing equipment, through public health (~~and~~) programs, community-based HIV prevention programs, outreach, shelter, and housing programs, and pharmacies. Public health and syringe service program staff taking samples of substances and using drug testing equipment for the purpose of analyzing the composition of the substances or detecting the presence of certain substances are acting legally and are exempt from arrest and prosecution under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c).

NEW SECTION. **Sec. 9.** A new section is added to chapter 69.50 RCW to read as follows:

The state of Washington hereby fully occupies and preempts the entire field of drug paraphernalia regulation within the boundaries of the state including regulation of the use, selling, giving, delivery, and possession of drug paraphernalia. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to drug paraphernalia that are specifically authorized by state law and are consistent with this chapter. Such local ordinances must have the same penalty as provided for by state law. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law may not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality.

Part III - Providing Opportunities for Pretrial Diversion and Vacating Convictions

NEW SECTION. **Sec. 10.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Nothing in this section prevents the defendant, with the consent of the prosecuting attorney as required by RCW 2.30.030, from seeking to resolve charges under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) through available therapeutic courts or other alternatives to prosecution. Nothing in this section prevents the defendant or the prosecuting attorney from seeking or agreeing to, or the court from ordering, any other resolution of charges or terms of supervision that suit the circumstances of the defendant's situation and advance stabilization, recovery, crime reduction, and justice.

(2) Any defendant charged with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) may make a motion to participate in pretrial diversion and agree to waive his or her right to a speedy trial if the motion is granted, subject to the following:

(a) In all cases, the court may not grant the motion unless the prosecuting attorney consents to the defendant's participation in pretrial diversion. The prosecuting attorney is strongly encouraged to agree to diversion in any case where the defendant is only charged with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), and in any case where the only additional charge or charges against the defendant are for other nonfelony offenses that are not crimes against persons.

(b) In any case where the defendant is only charged with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), and the defendant has not been convicted of any offenses committed after the effective date of this section, the court shall grant the motion, continue the hearing, and refer the defendant to an applicable program.

(c) In any case where the defendant does not meet the criteria described in (b) of this subsection, the court may grant the motion, continue the hearing, and refer the defendant to an applicable program.

(3) Prior to granting the defendant's motion to participate in pretrial diversion under this section, the court shall provide the defendant and the defendant's counsel with the following information:

(a) A full description of the procedures for pretrial diversion;

(b) A general explanation of the roles and authorities of the probation department, the prosecuting attorney, the applicable program, and the court in the process;

(c) A clear statement that the court may grant pretrial diversion with respect to any offense under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) that is charged, provided that the defendant pleads not guilty to the charge or charges and waives his or her right to a speedy trial, and that upon the defendant's

successful completion of pretrial diversion, as specified in subsection (1)(d) of this section, and motion of the defendant, prosecuting attorney, court, or probation department, the court must dismiss the charge or charges against the defendant;

(d) A clear statement that if the defendant has not made substantial progress with treatment or services provided that are appropriate to the defendant's circumstances or, if applicable, community restitution, the prosecuting attorney may make a motion to terminate pretrial diversion and schedule further proceedings as otherwise provided in this section;

(e) An explanation of criminal record retention and disposition resulting from participation in pretrial diversion and the defendant's rights relative to answering questions about his or her arrest and pretrial diversion following successful completion;

(f) A clear statement that under federal law it is unlawful for any person who is an unlawful user of or addicted to any controlled substance to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition, or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce; and

(g) A clear statement that if the defendant's biopsychosocial assessment results in a written report recommending no treatment or services, completion of pretrial diversion will instead be based on the defendant's completion of an amount of community restitution to be determined by the court, but not to exceed 120 hours of community restitution.

(4) The applicable program must make a written report to the court stating its findings and recommendations after the biopsychosocial assessment if the defendant decides to continue pursuing pretrial diversion. The report shall be filed under seal with the court, and a copy of the report shall be given to the prosecuting attorney, defendant, and defendant's counsel. The report and its copies are confidential and exempt from disclosure under chapter 42.56 RCW. The court shall endeavor to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the defendant.

(5) Subject to the availability of funds appropriated for this specific purpose, the biopsychosocial assessment and recommended services or treatment must be provided at no cost for individuals who have been found to be indigent by the court.

(6) Once the biopsychosocial assessment has been filed with the court, if the report indicates the individual has a substance use disorder, the court shall inform the individual that under federal law the individual may not possess any firearm or ammunition. The court shall thereafter sign an order of ineligibility to possess firearms as required by RCW 9.41.800 and shall require the individual to surrender all firearms in accordance with RCW 9.41.804.

(7) If the report does not recommend any treatment or services, the defendant must

instead complete an amount of community restitution as determined by the court, but not to exceed 120 hours of community restitution, in order to complete pretrial diversion.

(8) No statement, or any information procured therefrom relating to the charge for which the defendant is receiving services, made by the defendant to any treatment or service provider, that is made during the course of any biopsychosocial assessment or services provided by the applicable program, and before the reporting of the findings and recommendations to the court, may be admissible in any action or proceeding brought subsequent to the investigation.

(9) A defendant's participation in pretrial diversion under this section does not constitute a conviction, a stipulation to facts, or an admission of guilt for any purpose.

(10) At the time that pretrial diversion is granted, any bail bond on file by or on behalf of the defendant must be exonerated, and the court must enter an order so directing.

(11)(a) If it appears to the prosecuting attorney that the defendant is not meaningfully engaging in the recommended treatment or services or, if applicable, the community restitution, the prosecuting attorney may make a motion for termination from pretrial diversion.

(b) After notice to the defendant, the court must hold a hearing to determine whether pretrial diversion shall be terminated.

(c) If the court finds that the defendant is not meaningfully engaging in the recommended treatment or services or, if applicable, the community restitution, the court must schedule the matter for further proceedings.

(d) If the defendant successfully completes pretrial diversion, including in one of the following ways, the charge or charges under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) must be dismissed:

(i) If the written report prepared by the applicable program included recommended treatment or services, the defendant successfully completes pretrial diversion by having six months of meaningful engagement with assessment and recommended treatment or services and progress toward recovery goals, as reflected by a written status update from the applicable program; or

(ii) If the written report prepared by the applicable program did not include recommended treatment or services, the defendant successfully completes pretrial diversion by completing the community restitution described under subsection (7) of this section and submitting proof of completion to the court.

(12) For the purposes of this section, "applicable program" means the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

NEW SECTION. **Sec. 11.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Prior to sentencing any person convicted of violating RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), the court shall inform the person that under federal law it is unlawful for any person who is an unlawful user of or addicted to any controlled substance to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition, or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(2) In courts of limited jurisdiction, if an individual who is convicted of a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) agrees as a condition of probation to obtain a biopsychosocial assessment by an applicable program and participate in any recommended treatment or services, or, if the applicable program recommends no treatment or services, to complete court-ordered community restitution, the court shall sentence the individual to a term of confinement of up to 90 days, all of which shall be suspended for a period not to exceed one year.

(3) A biopsychosocial assessment shall be prepared by an applicable program. A copy of the assessment shall be forwarded to the court and filed under seal. Based on the assessment, the court shall determine whether the person shall be required to complete a course in an alcohol and drug information school licensed or certified by the department of health or more sustained services provided by a licensed behavioral health care provider, peer counseling program, or other case management program.

(a) Once the assessment has been filed with the court, if the report indicates the individual has a substance use disorder, the court shall inform the individual that under federal law the individual may not possess any firearm or ammunition. The court shall thereafter sign an order of ineligibility to possess firearms as required by RCW 9.41.800.

(b) Once the assessment has been filed with the court, if the report does not recommend any treatment or services, the court shall order the defendant to complete an amount of community restitution not to exceed 120 hours as a term of probation.

(c) The assessment shall include the following:

(i) Available background on the defendant's circumstances, barriers, and past service history, if any;

(ii) Nature of barriers and challenges;

(iii) Recommendations for services available in the individual's community that are likely to work with the individual and provide relevant support;

(iv) A statement of unavailability if there are no known suitable services presently available in the individual's community that would meaningfully assist the individual; and

(v) Approximate cost of the services if not publicly provided.

(4) A person subject to biopsychosocial assessment and treatment or services shall be required by the court to meaningfully engage in more sustained services provided by a licensed behavioral health care provider, peer counseling program, or other case management program, as determined by the court.

(5) If the court directs a service plan after receiving an individual's assessment, the court shall confirm with the individual's indicated service provider that the service provider consents to providing the court with occasional updates on the individual's progress on a schedule acceptable to the court. The updates must be provided at least monthly.

(6) Subject to the availability of funds appropriated for this purpose, the recommended treatment or services as ordered by the court shall be provided at no cost for sentenced individuals who have been found to be indigent by the court.

(7) As a condition of probation, the sentenced individual must meaningfully engage with the treatment or services recommendations of the biopsychosocial assessment.

(8) (a) If it appears to the prosecuting attorney that the sentenced individual is not meaningfully engaging in the recommended treatment or services, or, if applicable, not completing the court-ordered community restitution, the prosecuting attorney shall make a motion for a hearing to consider sanctions. After notice to the sentenced individual, the court shall hold a hearing to determine if a sanction or revocation of the individual's suspended sentence, or any part thereof, is warranted under RCW 3.50.340 or 3.66.069.

(b) The court may not sanction an individual for failing to comply with the recommended treatment or services if the court finds the sentenced individual has made reasonable efforts to comply with the recommended treatment but cannot comply either due to a lack of available treatment or services or, for sentenced individuals found to be indigent by the court, due to a lack of funding for treatment or services.

(c) At the hearing, if the court finds by a preponderance of the evidence that the sentenced individual has willfully abandoned or demonstrated a consistent failure to meaningfully engage in the recommended treatment or services, or, if applicable, is failing to complete the court-ordered community restitution, the court shall use its discretion in determining an appropriate sanction.

(9) An individual sentenced under subsection (2) of this section may vacate their conviction for a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) as follows:

(a) If the individual has successfully completed the recommended treatment or services, or, if applicable, the court-ordered community restitution, the individual must file proof of successful completion with the court. Upon verification of such proof, the court must terminate probation and enter an order vacating the individual's conviction.

(b) Regardless of whether the individual has completed recommended treatment or services, or the court-ordered community restitution, if the individual has had no additional arrests, charges, or criminal convictions in the one year after the individual's conviction for a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), the prosecutor shall make a motion to the court for an order vacating the individual's conviction, and the court shall terminate probation and enter an order vacating the individual's conviction.

(10) For the purposes of this section, "applicable program" means the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

Sec. 12. RCW 9.96.060 and 2022 c 16 s 7 are each amended to read as follows:

(1) When vacating a conviction under this section, the court effectuates the vacation by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) Every person convicted of a misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the requirements of this subsection, the court may in its discretion vacate the record of conviction. Except as provided in subsections (3), (4), ~~((and))~~ (5), and (6) of this section and section 11 of this act, an applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

(a) The applicant has not completed all of the terms of the sentence for the offense;

(b) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal or tribal court, at the time of application;

(c) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

(d) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence), 9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense or less than ten years has elapsed since the date of the arrest for the prior offense;

(e) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132;

(f) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family or household member against another or by one intimate partner against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has two or more domestic violence convictions stemming from different incidents. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

(g) For any offense other than those described in (f) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

(h) The offender has been convicted of a new crime in this state, another state, or federal or tribal court in the three years prior to the vacation application; or

(i) The applicant is currently restrained by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party or was previously restrained by such an order and was found to have committed one or more violations of the order in the five years prior to the vacation application.

(3) If the applicant is a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030, or the prosecutor applies on behalf of the state, the sentencing court may vacate the record of conviction if the

application satisfies the requirements of RCW 9.96.080. When preparing or filing the petition, the prosecutor is not deemed to be providing legal advice or legal assistance on behalf of the victim, but is fulfilling an administrative function on behalf of the state in order to further their responsibility to seek to reform and improve the administration of criminal justice. A record of conviction vacated using the process in RCW 9.96.080 is subject to subsections ~~((6) and)~~ (7) and (8) of this section.

(4) Every person convicted prior to January 1, 1975, of violating any statute or rule regarding the regulation of fishing activities, including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian fishing right, may apply to the sentencing court for vacation of the applicant's record of the misdemeanor, gross misdemeanor, or felony conviction for the offense. If the person is deceased, a member of the person's family or an official representative of the tribe of which the person was a member may apply to the court on behalf of the deceased person. Notwithstanding the requirements of RCW 9.94A.640, the court shall vacate the record of conviction if:

(a) The applicant is a member of a tribe that may exercise treaty Indian fishing rights at the location where the offense occurred; and

(b) The state has been enjoined from taking enforcement action of the statute or rule to the extent that it interferes with a treaty Indian fishing right as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those courts, or any other state supreme court or federal court decision.

(5) Every person convicted of a misdemeanor cannabis offense, who was ~~((twenty-one))~~ 21 years of age or older at the time of the offense, may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. A misdemeanor cannabis offense includes, but is not limited to: Any offense under RCW 69.50.4014, from July 1, 2004, onward, and its predecessor statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense under an equivalent municipal ordinance. If an applicant qualifies under this subsection, the court shall vacate the record of conviction.

(6) (a) If an individual convicted of a violation or violations of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030 (2) (b) or (c) successfully completes the recommended treatment or services and files proof of completion with the court, the prosecutor shall make a motion to vacate the individual's conviction or convictions. Upon verification that the individual successfully completed the treatment program or services, the court shall grant the motion and vacate the conviction or convictions.

(b) Regardless of whether the individual has completed the recommended treatment or services, if the individual has had no additional criminal arrests, charges, or convictions in the one year after the individual's conviction for a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), the prosecutor shall make a motion to the court for an order vacating the individual's conviction, and the court shall grant the motion and enter an order vacating the individual's conviction.

(7) A person who is a family member of a homicide victim may apply to the sentencing court on the behalf of the victim for vacation of the victim's record of conviction for prostitution under RCW 9A.88.030. If an applicant qualifies under this subsection, the court shall vacate the victim's record of conviction.

~~((7))~~ (8)(a) Except as provided in (c) of this subsection, once the court vacates a record of conviction under this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under this section may state that he or she has never been convicted of that crime. However, nothing in this section affects the requirements for restoring a right to possess a firearm under RCW 9.41.040. Except as provided in (b) of this subsection, nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(b) When a court vacates a record of domestic violence as defined in RCW 10.99.020 under this section, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) Violating the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle (RCW 10.99.040, 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or 26.52.070, or any of the former RCW 26.50.060, 26.50.070, 26.50.130, and 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic violence protection order or vulnerable adult protection order entered under chapter 7.105 RCW. A vacated conviction under this section is not considered a conviction of such an offense for the purposes of 27 C.F.R. 478.11.

(c) A conviction vacated on or after July 28, 2019, qualifies as a prior conviction for the purpose of charging a present recidivist offense as defined in RCW 9.94A.030 occurring on or after July 28, 2019.

~~((8))~~ (9) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

~~((9))~~ (10) For the purposes of this section, "cannabis" has the meaning provided in RCW 69.50.101.

NEW SECTION. Sec. 13. A new section is added to chapter 2.56 RCW to read as follows:

(1) The administrative office of the courts shall collect data and information related to the utilization and outcomes of pretrial diversions pursuant to section 10 of this act, convictions pursuant to section 11 of this act, and motions for vacating convictions pursuant to RCW 9.96.060(6), including but not limited to the following:

(a) The recidivism rate for persons who either participated in a pretrial diversion pursuant to section 10 of this act, or who were sentenced pursuant to section 11 of this act and agreed as a condition of probation to obtain a biopsychosocial assessment and participate in recommended treatment or services;

(b) The number of pretrial diversions offered pursuant to section 10 of this act and whether such diversions were terminated, were successfully completed and resulted in a dismissal, or are still ongoing;

(c) Aggregated and disaggregated demographic data for pretrial diversions pursuant to section 10 of this act, that identifies trends or disparities in utilization or outcomes based on race, ethnicity, gender, gender expression or identity, disability status, age, and any other appropriate characteristics as determined by the administrative office of the courts;

(d) Statistical data comparing the relative utilization and outcomes of pretrial diversions pursuant to section 10 of this act in specific courts and in different regions of Washington;

(e) The number of people convicted of a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c);

(f) The number of people sentenced pursuant to section 11 of this act who agreed as a condition of probation to obtain a biopsychosocial assessment and participate in recommended treatment or services;

(g) Aggregated and disaggregated demographic data for people convicted of a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b)

or (c), that identifies trends or disparities in sentencing for and vacating of such convictions based on race, ethnicity, gender, gender expression or identity, disability status, age, and any other appropriate characteristics as determined by the administrative office of the courts; and

(h) Statistical data comparing the sentences imposed pursuant to section 11 of this act, and the convictions vacated pursuant to RCW 9.96.060(6), in specific courts and in different regions of Washington.

(2) The administrative office of the courts shall, in cooperation with the Washington state patrol and the Washington association of sheriffs and police chiefs, collect data and information related to reported violations of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, and 69.41.030(2) (b) or (c) responded to by law enforcement, including but not limited to the following:

(a) Whether such violations were deferred to treatment in lieu of further legal system involvement, or referred to the prosecuting attorney for potential charges;

(b) The number of such violations involving repeat offenders; and

(c) The number of such violations involving persons who previously participated in pretrial diversion pursuant to section 10 of this act, or who were previously sentenced pursuant to section 11 of this act and agreed as a condition of probation to obtain a biopsychosocial assessment and participate in recommended treatment or services.

(3) Beginning August 1, 2024, and on August 1st of every year thereafter, the administrative office of the courts shall submit an annual report to the legislature containing the data and information described in subsections (1) and (2) of this section.

Part IV - Opioid Treatment Rural Access and Expansion

Sec. 14. RCW 36.70A.200 and 2021 c 265 s 2 are each amended to read as follows:

(1)(a) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance ~~(abuse)~~ use disorder treatment facilities, mental health facilities, group homes, community facilities as defined in RCW 72.05.020, and secure community transition facilities as defined in RCW 71.09.020.

(b) Unless a facility is expressly listed in (a) of this subsection, essential public facilities do not include facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings but are not used for punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense. Facilities included under this subsection (1)(b) shall not include facilities detaining persons under RCW 71.09.020 ~~((+6) or (15))~~ (7) or (16) or chapter 10.77 or 71.05 RCW.

(c) The department of children, youth, and families may not attempt to site new community facilities as defined in RCW 72.05.020 east of the crest of the Cascade mountain range unless there is an equal or greater number of sited community facilities as defined in RCW 72.05.020 on the western side of the crest of the Cascade mountain range.

(d) For the purpose of this section, "harm reduction programs" means programs that emphasize working directly with people who use drugs to prevent overdose and infectious disease transmission, improve the physical, mental, and social well-being of those served, and offer low threshold options for accessing substance use disorder treatment and other services.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70A.135.070;

(b) A consideration for grants or loans provided under RCW 43.17.250(3); or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action.

Sec. 15. RCW 71.24.589 and 2019 c 314 s 29 are each amended to read as follows:

(1) Subject to funds appropriated by the legislature, the authority shall ~~((implement a pilot project))~~ administer a grant program for law enforcement assisted diversion which shall adhere to law enforcement assisted diversion core principles recognized by the law enforcement assisted diversion national support bureau, the efficacy of which have been demonstrated in peer-reviewed research studies.

(2) ~~((Under the pilot project, the))~~ The authority must partner with the law enforcement assisted diversion national support bureau to award ~~((a contract))~~ contracts, subject to appropriation, for ~~((two or more geographic areas))~~ jurisdictions in the state of Washington for law enforcement assisted diversion. Cities, counties, and tribes ~~((may compete for participation in a pilot project))~~, subdivisions thereof, public development authorities, and community-based organizations demonstrating support from necessary public partners, may serve as the lead agency applying for funding. Funds may be used to scale existing projects, and to invite additional jurisdictions to launch law enforcement assisted diversion programs.

(3) The ~~((pilot projects))~~ program must provide for securing comprehensive technical assistance from law enforcement assisted diversion implementation experts to develop and implement a law enforcement assisted diversion program ~~((in the pilot project's geographic areas))~~ in a way that ensures fidelity to the research-based law enforcement assisted diversion model. Sufficient funds must be allocated from grant program funds to secure technical assistance for the authority and for the implementing jurisdictions.

(4) The key elements of a law enforcement assisted diversion ~~((pilot project))~~ program must include:

(a) Long-term case management for individuals with substance use disorders;

(b) Facilitation and coordination with community resources focusing on overdose prevention;

(c) Facilitation and coordination with community resources focused on the prevention of infectious disease transmission;

(d) Facilitation and coordination with community resources providing physical and behavioral health services;

(e) Facilitation and coordination with community resources providing medications for the treatment of substance use disorders;

(f) Facilitation and coordination with community resources focusing on housing, employment, and public assistance;

(g) ~~((Twenty-four))~~ 24 hours per day and seven days per week response to law enforcement for arrest diversions; and

(h) Prosecutorial support for diversion services.

(5) No civil liability may be imposed by any court on the state or its officers or employees, an appointed or elected official, public employee, public agency as defined in RCW 4.24.470, combination of units of government and its employees as provided in RCW 36.28A.010, nonprofit community-based organization, tribal government entity, tribal organization, or urban Indian organization, based on the administration of a law enforcement assisted diversion program or activities carried out within the purview of a grant received under this program except upon proof of bad faith or gross negligence.

Sec. 16. RCW 71.24.590 and 2019 c 314 s 30 are each amended to read as follows:

(1) When making a decision on an application for licensing or certification of ~~((a))~~ an opioid treatment program, the department shall:

(a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;

(b) License or certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional use permits with reasonable conditions for the siting of programs only to the extent that such reasonable conditional use requirements applied to opioid treatment programs are similarly applied to other essential public facilities and health care settings. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;

(c) Not discriminate in its licensing or certification decision on the basis of the corporate structure of the applicant;

(d) Consider the size of the population in need of treatment in the area in which the program would be located and license or certify only applicants whose programs meet the necessary treatment needs of that population;

(e) Consider the availability of other certified opioid treatment programs near the area in which the applicant proposes to locate the program;

(f) Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;

(g) Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature in RCW 71.24.585. The department shall prioritize licensing or

certification to applicants who have demonstrated such capability and are able to measure their success in meeting such outcomes (~~+~~

~~(h) Hold one public hearing in the community in which the facility is proposed to be located. The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing).~~

(2) ~~((A) No city or county legislative authority may impose a maximum capacity for ((a) an opioid treatment program ((of not less than three hundred fifty participants if necessary to address specific local conditions cited by the county)).~~

(3) A program applying for licensing or certification from the department and a program applying for a contract from a state agency that has been denied the licensing or certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

(4) Opioid treatment programs may order, possess, dispense, and administer medications approved by the United States food and drug administration for the treatment of opioid use disorder, alcohol use disorder, tobacco use disorder, and reversal of opioid overdose. For an opioid treatment program to order, possess, and dispense any other legend drug, including controlled substances, the opioid treatment program must obtain additional licensure as required by the department, except for patient-owned medications.

(5) Opioid treatment programs may accept, possess, and administer patient-owned medications.

(6) Registered nurses and licensed practical nurses may dispense up to a ~~((thirty-one))~~ 31 day supply of medications approved by the United States food and drug administration for the treatment of opioid use disorder to patients of the opioid treatment program, under an order or prescription and in compliance with 42 C.F.R. Sec. 8.12.

(7) For the purpose of this chapter, "opioid treatment program" means a program that:

(a) Engages in the treatment of opioid use disorder with medications approved by the United States food and drug administration for the treatment of opioid use disorder and reversal of opioid overdose, including methadone; and

(b) Provides a comprehensive range of medical and rehabilitative services.

(8) A mobile or fixed-site medication unit may be established as part of a licensed opioid treatment program.

NEW SECTION. Sec. 17. A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to funds appropriated for this specific purpose, a program is established in the department to fund the construction costs necessary to start up substance use disorder treatment and

services programs and recovery housing in regions of the state that currently lack access to such programs.

(2) This funding must be used to increase the number of substance use disorder treatment and services programs and recovery housing in underserved areas such as central and eastern Washington and rural areas.

NEW SECTION. Sec. 18. RCW 10.31.115 (Drug possession—Referral to assessment and services) and 2021 c 311 s 13 are each repealed.

Part V - Funding, Promotion, and Training for Recovery Residences

NEW SECTION. Sec. 19. A new section is added to chapter 71.24 RCW to read as follows:

Subject to the availability of funds appropriated for this specific purpose, the authority shall:

(1) Make sufficient funding available to support establishment of an adequate and equitable stock of recovery residences in each region of the state;

(2) Establish a voucher program to allow accredited recovery housing operators to hold bed space for individuals who are waiting for treatment or who have returned to use and need a place to stay while negotiating a return to stable housing;

(3) Conduct outreach to underserved and rural areas to support the development of recovery housing, including adequate resources for women, LGBTQIA+ communities, and youth; and

(4) Develop a training for housing providers by January 1, 2024, to assist them with providing appropriate service to LGBTQIA+ communities, including consideration of topics like harassment, communication, antiracism, diversity, and gender affirming behavior, and ensure applicants for grants or loans related to recovery residences receive access to the training.

Sec. 20. RCW 84.36.043 and 1998 c 174 s 1 are each amended to read as follows:

(1) The real and personal property used by a nonprofit organization in providing emergency or transitional housing for low-income homeless persons as defined in RCW 35.21.685 or 36.32.415 or victims of domestic violence who are homeless for personal safety reasons is exempt from taxation if:

(a) The charge, if any, for the housing does not exceed the actual cost of operating and maintaining the housing; and

(b) (i) The property is owned by the nonprofit organization; or

(ii) The property is rented or leased by the nonprofit organization and the benefit of the exemption inures to the nonprofit organization.

(2) The real and personal property used by a nonprofit organization in maintaining an approved recovery residence registered under RCW 41.05.760 is exempt from taxation if:

(a) The charge for the housing does not exceed the actual cost of operating and maintaining the housing; and

(b) (i) The property is owned by the nonprofit organization; or

(ii) The property is rented or leased by the nonprofit organization and the benefit of the exemption inures to the nonprofit organization.

(3) As used in this section:

(a) "Homeless" means persons, including families, who, on one particular day or night, do not have decent and safe shelter nor sufficient funds to purchase or rent a place to stay.

(b) "Emergency housing" means a project that provides housing and supportive services to homeless persons or families for up to sixty days.

(c) "Transitional housing" means a project that provides housing and supportive services to homeless persons or families for up to two years and that has as its purpose facilitating the movement of homeless persons and families into independent living.

((3)) (d) "Recovery residence" has the same meaning as under RCW 41.05.760.

(4) The exemption in subsection (2) of this section applies to taxes levied for collection in calendar years 2024 through 2033.

(5) This exemption is subject to the administrative provisions contained in RCW 84.36.800 through 84.36.865.

NEW SECTION. Sec. 21.

(1) This section is the tax preference performance statement for the tax preference contained in section 20, chapter . . ., Laws of 2023 (section 20 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) By exempting property used by nonprofit organizations maintaining approved recovery residences, it is the legislature's specific public policy objective to maximize funding for recovery residences to the extent possible, thereby increasing availability of such residences.

(4) To measure the effectiveness of the tax exemption provided in section 20 of this act in achieving the specific public policy objectives described in subsection (3) of this section, the joint legislative audit and review committee must evaluate:

(a) Annual changes in the total number of parcels qualifying for the exemption under section 20 of this act;

(b) The amount of annual property tax relief resulting from the tax exemption under section 20 of this act;

(c) The average annual number of people housed at recovery residences located on property qualifying for the exemption under section 20 of this act;

(d) The annualized amount charged for housing at recovery residences located on property qualifying for the exemption under section 20 of this act and the annualized estimated increase in the charge for housing if the properties had not been eligible for the exemption; and

(e) The annual amount of expenditures by nonprofits to maintain recovery residences located on property qualifying for the exemption under section 20 of this act.

(5) The legislature intends to extend the expiration date of the property tax exemption under section 20 of this act if the review by the joint legislative audit and review committee finds that:

(a) The number of properties qualifying for the exemption under section 20 of this act has increased;

(b) The number of individuals using recovery housing located on property qualifying for the exemption under section 20 of this act has increased; and

(c) The amount charged for recovery housing is reasonably consistent with the actual cost of operating and maintaining the housing.

(6) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to:

(a) Initial applications for the tax exemption under section 20 of this act as approved by the department of revenue under RCW 84.36.815;

(b) Annual financial statements prepared by nonprofit entities claiming the tax exemption under section 20 of this act;

(c) Filings with the federal government to maintain federal tax exempt status by nonprofit organizations claiming the tax exemption under section 20 of this act; and

(d) Any other data necessary for the evaluation under subsection (4) of this section.

Part VI - Training for Parents of Children with Substance Use Disorder and Caseworkers Within the Department of Children, Youth, and Families

NEW SECTION. Sec. 22. A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority, in consultation with the department of children, youth, and families, shall develop a training for parents of adolescents and transition age youth with substance use disorders by June 30, 2024, which training must build on and be consistent and compatible with existing training developed by the authority for families impacted by substance use disorder, and addressing the following:

(a) Science and education related to substance use disorders and recovery;

(b) Adaptive and functional communication strategies for communication with a loved one about their substance use disorder, including positive communication skills and strategies to influence motivation and behavioral change;

(c) Self-care and means of obtaining support;

(d) Means to obtain opioid overdose reversal medication when appropriate and instruction on proper use; and

(e) Suicide prevention.

(2) The authority and the department of children, youth, and families shall make this training publicly available, and the department of children, youth, and families must promote the training to licensed foster parents and caregivers, including any tribally licensed foster parents and tribal caregivers.

NEW SECTION. Sec. 23. A new section is added to chapter 43.216 RCW to read as follows:

The department shall provide opioid overdose reversal medication and training in the use of such medication to all department staff whose job duties require in-person service or case management for child welfare or juvenile rehabilitation clients.

Part VII - Recovery Navigator Programs

NEW SECTION. Sec. 24. To support recovery navigator programs, the health care authority must develop and implement a data integration platform by June 30, 2024, to serve as a common database available for diversion efforts across the state, to serve as a data collection and management tool for practitioners, and to assist in standardizing definitions and practices. If possible, the health care authority must leverage and interact with existing platforms already in use in efforts funded by the authority. The health care authority must establish a quality assurance process for behavioral health administrative services organizations, and employ data validation for fields in the data collection workbook. The health care authority must engage and consult with the law enforcement assisted diversion national support bureau on data integration approaches, platforms, quality assurance protocols, and validation practices.

NEW SECTION. Sec. 25. A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority shall contract with the Washington state institute for public policy to conduct a study of the long-term effectiveness of the recovery navigator program under RCW 71.24.115 with reports due by June 30th in the years 2028, 2033, and 2038. The Washington state institute for public policy shall collaborate with the authority, the law enforcement assisted diversion national support bureau, and the substance use recovery services advisory committee under RCW 71.24.546 on the topic of data collection and to determine the parameters of the report, which shall include recommendations, if any, for modification and improvement of the recovery navigator program. The law enforcement assisted diversion national support bureau may supplement the report with additional recommendations to improve the recovery navigator program by enhancing its ability to provide a viable, accepted, community-

based care alternative to jail and prosecution. The authority shall cooperate with the Washington state institute for public policy to provide data for this report.

(2) The authority shall establish an expedited preapproval process by August 1, 2023, which allows requests for the use of data to be forwarded to the Washington state institutional review board without delay when the request is made by the Washington state institute for public policy for the purpose of completing a study that has been directed by the legislature.

Sec. 26. RCW 71.24.115 and 2021 c 311 s 2 are each amended to read as follows:

(1) Each behavioral health administrative services organization shall ((establish a))provide funds and certain administrative support for recovery navigator ((program))programs. The programs, while supported with funding from the behavioral health administrative services organizations, must be overseen and directed by policy coordinating groups comprised, in alignment with the core principles, of local executive and legislative officials, public safety agencies, including police and prosecutors, and civil rights, public defense, and human services organizations. Project management for recovery navigator programs shall be provided by an entity independent of the behavioral health administrative services organization, which, by its mission and position, is able to implement the collective direction of the governing policy coordinating group. Where there are existing law enforcement assisted diversion programs or programs operating with high fidelity in alignment with the core principles, recovery navigator program funding should support these programs to achieve greater scale, rather than supporting parallel programs in the same jurisdictions.

(2) The recovery navigator programs shall be organized on a scale that permits meaningful direction from and coordination with local law enforcement and municipal agencies. Multiple jurisdictions may be served together in a single program if the governing structure includes the public officials necessary under the law enforcement assisted diversion model and they agree to participate in a single program. The ((program))programs shall provide community-based outreach, intake, assessment, and connection to services and, as appropriate, long-term intensive case management and recovery coaching services, to youth and adults with substance use disorder, including for persons with co-occurring substance use disorders and mental health conditions, who are referred to the program from diverse sources and shall facilitate and coordinate connections to a broad range of community resources for youth and adults with substance use disorder, including treatment and recovery support services. Recovery navigator programs must serve and prioritize individuals who are actually or potentially exposed to the criminal legal system related to unlawful

behavior connected to drug activity or other behavioral health issues.

~~((2))~~ (3) The authority shall ~~(establish)~~ revise its uniform program standards for behavioral health administrative services organizations to follow in the design of their recovery navigator programs, following consultation with an organization with both significant experience with the implementation in Washington and nationally of, and technical assistance regarding, the law enforcement assisted diversion programs as described in RCW 71.24.589, including fidelity assessment, and recognized as the entity responsible for protecting the registered trademark of law enforcement assisted diversion, such as the law enforcement assisted diversion national support bureau, to enhance fidelity with the core principles. The uniform program standards must be modeled with fidelity upon the components of the law enforcement assisted diversion program and address project management, field engagement, biopsychosocial assessment, intensive case management and care coordination, stabilization housing when available and appropriate, and, as necessary, legal system coordination for participants' nondiverted legal cases that may precede or follow referral to the program. The uniform program standards must be revised to incorporate the law enforcement assisted diversion framework for police diversion prior to arrest, without arrest, and postarrest but prior to jail booking and referral for prosecution, and for ongoing case conferencing with law enforcement, prosecutors, community stakeholders, and program case managers. The authority must adopt the uniform program standards with fidelity from the components of the law enforcement assisted diversion program ~~((to accommodate an expanded population of))~~ following guidance from the consulting organization identified in this subsection (3). The uniform standards must provide for a range of program referral channels to serve persons with substance use disorders, including persons with co-occurring substance use disorders and mental health conditions, and ~~((allow for referrals from a broad range of sources))~~ must require prioritization of those who are or likely will be exposed to the criminal legal system related to their behavioral health issues. In addition to accepting referrals from law enforcement, the uniform program standards must provide guidance for accepting referrals ~~((on behalf of persons with substance use disorders, including persons with co-occurring substance use disorders and mental health conditions))~~ of individuals who otherwise could be exposed to the criminal legal system, from various sources including, but not limited to, self-referral, family members of the individual, emergency department personnel, persons engaged with serving homeless persons, including those living unsheltered or in encampments, fire department personnel, emergency medical service personnel, community-based organizations, members of the business community, harm reduction program personnel, faith-based organization staff, and other sources within the criminal

legal system, ((as outlined)) so that individuals are engaged as early as possible within the sequential intercept model. In developing response time requirements within the statewide program standards, the authority shall require, subject to the availability of amounts appropriated for this specific purpose, that responses to referrals from law enforcement occur immediately for in-custody referrals and shall strive for rapid response times to other appropriate settings such as emergency departments.

~~((3))~~ (4) Subject to the availability of amounts appropriated for this specific purpose, the authority shall provide funding to each behavioral health administrative services organization for the ~~((development of its))~~ continuation of and, as required by this section, the revisions to and reorganization of the recovery navigator ((program)) programs they fund. ~~((Before receiving funding for implementation and ongoing administration, each))~~ No behavioral health administrative services organization ((must submit)) may receive funds after January 1, 2024, unless it has submitted a program plan that demonstrates the ability to fully comply with the revised statewide program standards and is approved by the authority. If contracts for project managers and service providers must be reproced in order to comply with the revised standards, that process must be completed by July 1, 2024, to receive continued funding. The authority shall determine whether to approve each plan or request for revisions. The authority shall establish a schedule for the regular review of recovery navigator programs funded by behavioral health administrative services ((organizations' programs)) organizations. The authority must confer with the consulting organization identified in subsection (3) of this section when making determinations regarding plan approval and any need for revisions and must include the organization in any regular reviews of recovery navigator programs. The authority shall arrange for technical assistance to be provided to the authority, behavioral health administrative services organizations, contracted providers, and independent stakeholders and partners, such as prosecuting attorneys and law enforcement, by the ((LEAD national support bureau to all behavioral health administrative services organizations)) consulting organization identified in subsection (3) of this section, which may provide technical assistance directly to recovery navigator program contractors, stakeholders, and partners.

~~((4))~~ (5) Each behavioral health administrative services organization must have a substance use disorder regional administrator for its recovery navigator program. The regional administrator shall be responsible for assuring compliance with program standards, including staffing standards, and shall consult with the consulting organization identified in subsection (3) of this section to assist in assessing compliance with the standards. Each recovery navigator program must maintain a sufficient number of

appropriately trained personnel for providing intake and referral services, conducting comprehensive biopsychosocial assessments, providing intensive case management services, and making warm handoffs to treatment and recovery support services along the continuum of care. Program staff must include people both with lived experience with substance use disorder and people with clinical expertise necessary to the provision of skilled care and a supervisor of a care team, to the extent possible. The substance use disorder regional administrator must assure that staff who are conducting intake and referral services and field assessments are paid a livable and competitive wage and have appropriate initial training and receive continuing education.

~~((+5))~~ (6) Each recovery navigator program must submit quarterly reports to the authority with information identified by the authority and the substance use recovery services advisory committee. The reports must be provided to the substance use recovery services advisory committee for discussion at meetings following the submission of the reports. The committee is strongly encouraged to invite the consulting organization identified in subsection (3) of this section to participate in presenting these reports to the committee.

(7) No civil liability may be imposed by any court on the state or its officers or employees, an appointed or elected official, public employee, public agency as defined in RCW 4.24.470, combination of units of government and its employees as provided in RCW 36.28A.010, nonprofit community-based organization, tribal government entity, tribal organization, or urban Indian organization, based on the administration of a recovery navigator program except upon proof of bad faith or gross negligence.

(8) For the purposes of this section, the term "core principles" means the core principles of a law enforcement assisted diversion program, as established by the law enforcement assisted diversion national support bureau in its toolkit, as it existed on May 1, 2023.

Part VIII - Establishing a Pilot Program for Health Engagement Hubs

NEW SECTION. Sec. 27. A new section is added to chapter 71.24 RCW to read as follows:

(1)(a) The authority shall implement a pilot program for health engagement hubs by August 1, 2024. The pilot program will test the functionality and operability of health engagement hubs, including whether and how to incorporate and build on existing medical, harm reduction, treatment, and social services in order to create an all-in-one location where people who use drugs can access such services.

(b) Subject to amounts appropriated, the authority shall establish pilot programs on at least two sites, with one site located in an urban area and one located in a rural area.

(c) The authority shall report on the pilot program results, including

recommendations for expansion, and rules and payment structures, to the legislature no later than August 1, 2026.

(2) A health engagement hub is intended to:

(a) Serve as an all-in-one location where people who use drugs can access a range of medical, harm reduction, treatment, and social services;

(b) Be affiliated with existing syringe service programs, federally qualified health centers, community health centers, overdose prevention sites, safe consumption sites, patient-centered medical homes, tribal behavioral health programs, peer run organizations such as clubhouses, services for unhoused people, supportive housing, and opioid treatment programs including mobile and fixed-site medication units established under an opioid treatment program, or other appropriate entity;

(c) Provide referrals or access to methadone and other medications for opioid use disorder;

(d) Function as a patient-centered medical home by offering high-quality, cost-effective patient-centered care, including wound care;

(e) Provide harm reduction services and supplies;

(f) Provide linkage to housing, transportation, and other support services; and

(g) Be open to youth as well as adults.

Part IX - Education and Employment Pathways

NEW SECTION. Sec. 28. A new section is added to chapter 71.24 RCW to read as follows:

Subject to funding provided for this specific purpose, the authority shall establish a grant program for providers of employment, education, training, certification, and other supportive programs designed to provide persons recovering from a substance use disorder with employment and education opportunities. The grant program shall employ a low-barrier application and give priority to programs that engage with black, indigenous, persons of color, and other historically underserved communities.

Part X - Providing a Statewide Directory of Recovery Services

NEW SECTION. Sec. 29. A new section is added to chapter 71.24 RCW to read as follows:

Subject to funding provided for this specific purpose, the authority must collaborate with the department and the department of social and health services to expand the Washington recovery helpline and the recovery readiness asset tool to provide a dynamically updated statewide behavioral health treatment and recovery support services mapping tool that includes a robust resource database for those seeking services and a referral system to be incorporated within the locator tool to help facilitate the connection between an individual and a facility that is currently accepting new

referrals. The tool must include dual interface capability, one for public access and one for internal use and management.

Part XI - Investing Adequately in Statewide Diversion Services

NEW SECTION. **Sec. 30.** A new section is added to chapter 71.24 RCW to read as follows:

Subject to the availability of funds appropriated for this specific purpose, the authority shall:

(1) Continue and expand efforts to provide opioid use disorder medication in city, county, regional, and tribal jails;

(2) Provide support funds to new and established recovery support services including department of health certified clubhouses throughout the state;

(3) Award grants to an equivalent number of crisis services providers to the west and the east of the Cascade mountains, to establish and expand 23-hour crisis relief center capacity;

(4) Maintain a memorandum of understanding with the criminal justice training commission to provide ongoing funding for community grants pursuant to RCW 36.28A.450; and

(5) Provide ongoing grants to law enforcement assistant diversion programs under RCW 71.24.589.

Part XII - Streamlining Substance Use Disorder Treatment Intakes

NEW SECTION. **Sec. 31.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority shall convene a work group to recommend changes to systems, policies, and processes related to intake, screening, and assessment for substance use disorder services, with the goal to broaden the workforce capable of administering substance use disorder assessments and to make the assessment process as brief as possible, including only what is necessary to manage utilization and initiate care. The intake shall be low barrier, person-centered, and amenable to administration in diverse health care settings and by a range of health care professionals. The intake assessment shall consider the person's self-identified needs and preferences when evaluating direction of treatment and may include different components based on the setting, context, and past experience with the client.

(2) The work group must include care providers, payors, people who use drugs, individuals in recovery from substance use disorder, and other individuals recommended by the authority. The work group shall present its recommendations to the governor and appropriate committees of the legislature by December 1, 2024.

Sec. 32. RCW 18.64.600 and 2020 c 244 s 2 are each amended to read as follows:

(1) The license of location for a pharmacy licensed under this chapter may be

extended to a remote dispensing site where technology is used to dispense medications (~~(approved by the United States food and drug administration)~~ used for the treatment of opioid use disorder or its symptoms).

(2) In order for a pharmacy to use remote dispensing sites, a pharmacy must register each separate remote dispensing site with the commission.

(3) The commission shall adopt rules that establish minimum standards for remote dispensing sites registered under this section. The minimum standards shall address who may retrieve medications for opioid use disorder stored in or at a remote dispensing site pursuant to a valid prescription or chart order. The minimum standards must require the pharmacy be responsible for stocking and maintaining a perpetual inventory of the medications for opioid use disorder stored in or at the registered remote dispensing site. The dispensing technology may be owned by either the pharmacy or the registered remote dispensing site.

(4) The secretary may adopt rules to establish a reasonable fee for obtaining and renewing a registration issued under this section.

(5) The registration issued under this section will be considered as part of the pharmacy license issued under RCW 18.64.043. If the underlying pharmacy license is not active, then the registration shall be considered inoperable by operation of law.

Part XIII - Miscellaneous Provisions

NEW SECTION. **Sec. 33.** Section 7 of this act takes effect January 1, 2025.

Sec. 34. 2021 c 311 s 29 (uncodified) is amended to read as follows:

Sections 8 through 10(~~(7)~~) and 12(~~(7-15, and 16)~~) of this act expire July 1, 2023.

NEW SECTION. **Sec. 35.** Sections 2 through 6, 8 through 12, and 34 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023.

NEW SECTION. **Sec. 36.** 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. 37.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli;

Ryu; Senn; Simmons; Slatter; Springer; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler; Connors; Couture; Dye; Harris; Sandlin; Schmick; and Steele.

MINORITY recommendation: Without recommendation. Signed by Representative Rude.

Referred to Committee on Rules for second reading

April 4, 2023

SB 5550 Prime Sponsor, Senator Liias: Addressing workforce development issues, including cultural issues, at the Washington state ferries. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Griffey; Hackney; Mena; Ramel; Ramos; Taylor and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representatives Goehner; Klicker; Orcutt; Volz; and Walsh.

Referred to Committee on Rules for second reading

April 4, 2023

2SSB 5555 Prime Sponsor, Ways & Means: Creating the profession of certified peer specialists. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that peers play a critical role along the behavioral health continuum of care, from outreach to treatment to recovery support. Peers deal in the currency of hope and motivation and are incredibly adept at supporting people with behavioral health challenges on their recovery journeys. Peers represent the only segment of the behavioral health workforce where there is not a shortage, but a surplus of willing workers. Peers, however, are presently limited to serving only medicaid recipients and working only in community behavioral health agencies. As a result, youth and adults with commercial insurance have no access to peer services. Furthermore, peers who work in other settings, such as emergency departments and behavioral health urgent care, cannot bill insurance for their services.

(2) Therefore, it is the intent of the legislature to address the behavioral health workforce crisis, expand access to peer services, eliminate financial barriers to

professional licensing, and honor the contributions of the peer profession by creating the profession of certified peer specialists.

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

(1) "Advisory committee" means the Washington state certified peer specialist advisory committee established under section 4 of this act.

(2) "Approved supervisor" means:

(a) Until July 1, 2028, a behavioral health provider, as defined in RCW 71.24.025 with at least two years of experience working in a behavioral health practice that employs peer specialists as part of treatment teams; or

(b) A certified peer specialist who has completed:

(i) At least 1,500 hours of work as a fully certified peer specialist engaged in the practice of peer support services, with at least 500 hours attained through the joint supervision of peers in conjunction with another approved supervisor; and

(ii) The training developed by the health care authority under section 13 of this act.

(3) "Certified peer specialist" means a person certified under this chapter to engage in the practice of peer support services.

(4) "Certified peer specialist trainee" means an individual working toward the supervised experience and written examination requirements to become a certified peer specialist under this chapter.

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

(6) "Practice of peer support services" means the provision of interventions by either a person in recovery from a mental health condition or substance use disorder, or both, or the parent or legal guardian of a youth who is receiving or has received behavioral health services. The client receiving the interventions receives them from a person with a similar lived experience as either a person in recovery from a mental health condition or substance use disorder, or both, or the parent or legal guardian of a youth who is receiving or has received behavioral health services. The person provides the interventions through the use of shared experiences to assist a client in the acquisition and exercise of skills needed to support the client's recovery. Interventions may include activities that assist clients in accessing or engaging in treatment and in symptom management; promote social connection, recovery, and self-advocacy; provide guidance in the development of natural community supports and basic daily living skills; and support clients in engagement, motivation, and maintenance related to achieving and maintaining health and wellness goals.

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

NEW SECTION. **Sec. 3.** In addition to any other authority, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter;

(2) Establish all certification, examination, and renewal fees for certified peer specialists in accordance with RCW 43.70.110 and 43.70.250;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Issue certificates to applicants who have met the education, training, and examination requirements for obtaining a certificate and to deny a certificate to applicants who do not meet the requirements;

(5) Coordinate with the health care authority to confirm an applicants' successful completion of the certified peer specialist education course offered by the health care authority under section 13 of this act and successful passage of the associated oral examination as proof of eligibility to take a qualifying written examination for applicants for obtaining a certificate;

(6) Establish practice parameters consistent with the definition of the practice of peer support services;

(7) Provide staffing and administrative support to the advisory committee;

(8) Determine which states have credentialing requirements equivalent to those of this state, and issue certificates to applicants credentialed in those states without examination;

(9) Define and approve any supervised experience requirements for certification;

(10) Assist the advisory committee with the review of peer counselor apprenticeship program applications in the process of being approved and registered under chapter 49.04 RCW;

(11) Adopt rules implementing a continuing competency program; and

(12) Establish by rule the procedures for an appeal of an examination failure.

NEW SECTION. **Sec. 4.** (1) The Washington state certified peer specialist advisory committee is established.

(2)(a) The advisory committee shall consist of 11 members. Nine members must be certified peer specialists. Those nine members shall be inclusive of mental health peers, substance use disorder peers, community-based peers, peers who work in clinical settings, youth peers, adult peers, parent or family peers, and peer supervisors. One member must represent community behavioral health agencies. One member must represent the public at large and may not be a credentialed behavioral health provider. The advisory committee shall be reflective of the community who receives peer services, including people who are Black, indigenous, people of color, and individuals who identify as LGBTQ. All members of the advisory committee must be residents of Washington state. Members may not hold an office in a professional association for peer specialists or be employed by the state. A majority of the members currently serving shall constitute a quorum.

(b) The members shall be appointed by the secretary to serve three-year terms which may be renewed. Initial members shall be appointed to staggered terms which may be less than three years. Initial membership may vary from the requirements in (a) of this subsection to account for the lack of an available credential for certified peer specialists at the time the advisory committee is established. The advisory committee shall select a chair and vice chair.

(3) The department and the health care authority, as appropriate, are encouraged to adopt recommendations as submitted by the advisory committee on topics related to the administration of this chapter and provide their rationale for any formal recommendations of the advisory committee that either agency does not adopt, including:

(a) Advice and recommendations regarding the establishment or implementation of rules related to this chapter;

(b) Advice, recommendations, and consultation regarding professional boundaries, customary practices, and other aspects of peer support as it relates to complaints, investigations, and other disciplinary actions;

(c) Assistance and recommendations to enhance patient and client education;

(d) Assistance and recommendations regarding the written and oral examination to become a certified peer specialist and the examiners conducting the examinations, including recommendations to assure that the examinations, and the manner in which the examinations are administered, are culturally appropriate;

(e) Assistance and recommendations regarding any continuing education and continuing competency programs administered under the provisions of this chapter;

(f) Advice and guidance regarding criteria for certification based on prior experience as a peer specialist attained before July 1, 2025, as described in section 7(2) of this act;

(g) Recommendations for additional supports that may help those practicing as peer counselors as of the effective date of this section to become certified peer specialists;

(h) Advice and guidance on the feasibility and design of a two-phase certification program for peer specialists;

(i) Review of existing health care authority policies and procedures related to peer counselors;

(j) Advice on approving additional education and training entities, other than the health care authority, to conduct the course of instruction in section 13(1)(a) of this act to expand availability of the course, particularly among black, indigenous, people of color, and individuals who identify as LGBTQ;

(k) Advice on approving additional testing entities, other than the health care authority to administer the written and oral examination, including entities owned by black, indigenous, and people of color;

(l) Advice on long-term planning and growth for the future advancement of the peer specialist profession;

(m) Recommendations on recruitment and retention in the peer specialist profession, including among black, indigenous, people of color, and individuals who identify as LGBTQ; and

(n) Recommendations on strategies to eliminate financial barriers to licensing as a certified peer specialist.

(4) Committee members are immune from suit in an action, civil or criminal, based on the department's disciplinary proceedings or other official acts performed in good faith.

(5) Committee members shall be compensated in accordance with RCW 43.03.240, including travel expenses in carrying out his or her authorized duties in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 5. Beginning July 1, 2025, except as provided in section 13 of this act, the decision of a person practicing peer support services to become certified under this chapter is voluntary. A person may not use the title certified peer specialist unless the person holds a credential under this chapter.

NEW SECTION. Sec. 6. Nothing in this chapter may be construed to prohibit or restrict:

(1) An individual who holds a credential issued by this state, other than as a certified peer specialist or certified peer specialist trainee, to engage in the practice of an occupation or profession without obtaining an additional credential from the state. The individual may not use the title certified peer specialist unless the individual holds a credential under this chapter; or

(2) The practice of peer support services by a person who is employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States.

NEW SECTION. Sec. 7. (1) Beginning July 1, 2025, except as provided in subsections (2) and (3) of this section, the secretary shall issue a certificate to practice as a certified peer specialist to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements:

(a) Submission of an attestation to the department that the applicant self-identifies as:

(i) A person with one or more years of recovery from a mental health condition, substance use disorder, or both; or

(ii) The parent or legal guardian of a youth who is receiving or has received behavioral health services;

(b) Successful completion of the education course developed and offered by the health care authority under section 13 of this act;

(c) Successful passage of an oral examination administered by the health care authority upon completion of the education course offered by the health care authority under section 13 of this act;

(d) Successful passage of a written examination administered by the health care authority upon completion of the education course offered by the health care authority under section 13 of this act;

(e) Successful completion of an experience requirement of at least 1,000 supervised hours as a certified peer specialist trainee engaged in the volunteer or paid practice of peer support services, in accordance with the standards in section 8 of this act; and

(f) Payment of the appropriate fee required under this chapter.

(2) The secretary, with the recommendation of the advisory committee, shall establish criteria for the issuance of a certificate to engage in the practice of peer support services based on prior experience as a peer specialist attained before July 1, 2025. The criteria shall establish equivalency standards necessary to be deemed to have met the requirements of subsection (1) of this section. An applicant under this subsection shall have until July 1, 2026, to complete any standards in which the applicant is determined to be deficient.

(3) The secretary, with the recommendation of the advisory committee, shall issue a certificate to engage in the practice of peer support services based on completion of an apprenticeship program registered and approved under chapter 49.04 RCW and reviewed by the advisory committee under section 3 of this act.

(4) A certificate to engage in the practice of peer support services is valid for two years. A certificate may be renewed upon demonstrating to the department that the certified peer specialist has successfully completed 30 hours of continuing education approved by the department. As part of the continuing education requirement, every six years the applicant must submit proof of successful completion of at least three hours of suicide prevention training and at least six hours of coursework in professional ethics and law, which may include topics under RCW 18.130.180.

NEW SECTION. Sec. 8. (1) Beginning July 1, 2025, the secretary shall issue a certificate to practice as a certified peer specialist trainee to any applicant who demonstrates to the satisfaction of the secretary that:

(a) The applicant meets the requirements of section 7 (1)(a), (b), (c), (d), and (4) of this act and is working toward the supervised experience requirements to become a certified peer specialist under this chapter; or

(b) The applicant is enrolled in an apprenticeship program registered and approved under chapter 49.04 RCW and approved by the secretary under section 3 of this act.

(2) An applicant seeking to become a certified peer specialist trainee under this section shall submit to the secretary for approval an attestation, in accordance with rules adopted by the department, that the certified peer specialist trainee is actively pursuing the supervised experience

requirements of section 7(1)(d) of this act. This attestation must be updated with the trainee's annual renewal.

(3) A certified peer specialist trainee certified under this section may practice only under the supervision of an approved supervisor. Supervision may be provided through distance supervision. Supervision may be provided by an approved supervisor who is employed by the same employer that employs the certified peer specialist trainee or by an arrangement made with a third-party approved supervisor to provide supervision, or a combination of both types of approved supervisors.

(4) A certified peer specialist trainee certificate is valid for one year and may only be renewed four times.

NEW SECTION. Sec. 9. (1) The date and location of written examinations must be established by the health care authority. Applicants who have been found by the health care authority to meet other requirements for obtaining a certificate must be scheduled for the next examination following the filing of the application. The health care authority shall establish by rule the examination application deadline.

(2) The health care authority shall administer written examinations to each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. The examinations must be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination materials, all grading of the materials, and the grading of any practical work must be preserved for a period of not less than one year after the health care authority has made and published the decisions. All examinations must be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first written examination may take up to three subsequent written examinations as the applicant desires upon prepaying a fee determined by the health care authority for each subsequent written examination. Upon failing four written examinations, the health care authority may invalidate the original application and require remedial education before the person may take future written examinations.

(5) The health care authority may approve a written examination prepared or administered by a private organization that credentials and renews credentials for peer counselors, or an association of credentialing agencies, for use by an applicant in meeting the credentialing requirements.

NEW SECTION. Sec. 10. The secretary shall establish, by rule, the requirements and fees for renewal of a certificate issued pursuant to this chapter. Fees must be established in accordance with RCW 43.70.110 and 43.70.250. Failure to renew the certificate invalidates the certificate and all privileges granted by the certificate.

If a certificate has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the secretary by completing continuing competency requirements or meeting other standards determined by the secretary.

NEW SECTION. Sec. 11. (1) The department, in consultation with the advisory committee, shall conduct an assessment and submit a report to the governor and the committees of the legislature with jurisdiction over health policy issues by December 1, 2027.

(2) The report in subsection (1) of this section shall provide:

(a) An analysis of the adequacy of the supply of certified peer specialists serving as approved supervisors pursuant to section 2(2)(b) of this act with respect to the ability to meet the anticipated supervision needs of certified peer specialist trainees upon the expiration of behavioral health providers serving as approved supervisors pursuant to section 2(2)(a) of this act;

(b) An assessment of whether or not it is necessary to extend the expiration of behavioral health providers serving as approved supervisors pursuant to section 2(2)(a) of this act in order to meet the anticipated supervision needs of certified peer specialist trainees;

(c) Recommendations for increasing the supply of certified peer specialists serving as approved supervisors pursuant to section 2(2)(b) of this act, including any potential modifications to the requirements to become an approved supervisor; and

(d) Recommendations for alternative methods of providing supervision to certified peer specialist trainees, including options for team-based supervision that incorporate supervision from both behavioral health providers serving as approved supervisors pursuant to section 2(2)(a) of this act and certified peer specialists serving as approved supervisors pursuant to section 2(2)(b) of this act.

NEW SECTION. Sec. 12. The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice of peer support services, the issuance and denial of certificates, and the discipline of certified peer specialists and certified peer specialist trainees under this chapter.

NEW SECTION. Sec. 13. A new section is added to chapter 71.24 RCW to read as follows:

(1)(a) By January 1, 2025, the authority must develop a course of instruction to become a certified peer specialist under chapter 18.--- RCW (the new chapter created in section 22 of this act). The course must be approximately 80 hours in duration and based upon the curriculum offered by the authority in its peer counselor training as of the effective date of this section, as well as additional instruction in the principles of recovery coaching and suicide prevention. The authority shall establish a peer engagement process to receive suggestions regarding subjects to be covered

in the 80-hour curriculum beyond those addressed in the peer counselor training curriculum and recovery coaching and suicide prevention curricula, including the cultural appropriateness of the 80-hour training. The education course must be taught by certified peer specialists. The education course must be offered by the authority with sufficient frequency to accommodate the demand for training and the needs of the workforce. The authority must establish multiple configurations for offering the education course, including offering the course as an uninterrupted course with longer class hours held on consecutive days for students seeking accelerated completion of the course and as an extended course with reduced daily class hours, possibly with multiple days between classes, to accommodate students with other commitments. Upon completion of the education course, the student must pass an oral examination administered by the course trainer.

(b) The authority shall develop an expedited course of instruction that consists of only those portions of the curriculum required under (a) of this subsection that exceed the authority's certified peer counselor training curriculum as it exists on the effective date of this section. The expedited training shall focus on assisting persons who completed the authority's certified peer counselor training as it exists on the effective date of this section to meet the education requirements for certification under section 7 of this act.

(2) By January 1, 2025, the authority must develop a training course for certified peer specialists providing supervision to certified peer specialist trainees under section 8 of this act.

(3)(a) By July 1, 2025, the authority shall offer a 40-hour specialized training course in peer crisis response services for individuals employed as peers who work with individuals who may be experiencing a behavioral health crisis. When offering the training course, priority for enrollment must be given to certified peer specialists employed in a crisis-related setting, including entities identified in (b) of this subsection. The training shall incorporate best practices for responding to 988 behavioral health crisis line calls, as well as processes for co-response with law enforcement when necessary.

(b) Beginning July 1, 2025, any entity that uses certified peer specialists as peer crisis responders, may only use certified peer specialists who have completed the training course established by (a) of this subsection. A behavioral health agency that uses certified peer specialists to work as peer crisis responders must maintain the records of the completion of the training course for those certified peer specialists who provide these services and make the records available to the state agency for auditing or certification purposes.

(4) By July 1, 2025, the authority shall offer a course designed to inform licensed or certified behavioral health agencies of the benefits of incorporating certified peer specialists and certified peer specialist trainees into their clinical staff and best

practices for incorporating their services. The authority shall encourage entities that hire certified peer specialists and certified peer specialist trainees, including licensed or certified behavioral health agencies, hospitals, primary care offices, and other entities, to have appropriate staff attend the training by making it available in multiple formats.

(5) The authority shall:

(a) Hire clerical, administrative, investigative, and other staff as needed to implement this section to serve as examiners for any practical oral or written examination and assure that the examiners are trained to administer examinations in a culturally appropriate manner and represent the diversity of applicants being tested. The authority shall adopt procedures to allow for appropriate accommodations for persons with a learning disability, other disabilities, and other needs and assure that staff involved in the administration of examinations are trained on those procedures;

(b) Develop oral and written examinations required under this section. The initial examinations shall be adapted from those used by the authority as of the effective date of this section and modified pursuant to input and comments from the Washington state peer specialist advisory committee. The authority shall assure that the examinations are culturally appropriate;

(c) Prepare, grade, and administer, or supervise the grading and administration of written examinations for obtaining a certificate;

(d) Approve entities to provide the educational courses required by this section and approve entities to prepare, grade, and administer written examinations for the educational courses required by this section. In establishing approval criteria, the authority shall consider the recommendations of the Washington state peer specialist advisory committee;

(e) Develop examination preparation materials and make them available to students enrolled in the courses established under this section in multiple formats, including specialized examination preparation support for students with higher barriers to passing the written examination; and

(f) The authority shall administer, through contract, a program to link eligible persons in recovery from behavioral health challenges who are seeking employment as peers with employers seeking to hire peers, including certified peer specialists. The authority must contract for this program with an organization that provides peer workforce development, peer coaching, and other peer supportive services. The contract must require the organization to create and maintain a statewide database which is easily accessible to eligible persons in recovery who are seeking employment as peers and potential employers seeking to hire peers, including certified peer specialists. The program must be fully implemented by July 1, 2024.

(6) For the purposes of this section, the term "peer crisis responder" means a peer specialist certified under chapter 18.---

RCW (the new chapter created in section 22 of this act) who has completed the training under subsection (3) of this section whose job involves responding to behavioral health emergencies, including those dispatched through a 988 crisis hotline or the 911 system.

NEW SECTION. Sec. 14. A new section is added to chapter 71.24 RCW to read as follows:

Behavioral health agencies must reduce the caseload for approved supervisors who are providing supervision to certified peer specialist trainees seeking certification under chapter 18.--- RCW (the new chapter created in section 22 of this act), in accordance with standards established by the Washington state certified peer specialist advisory committee.

NEW SECTION. Sec. 15. A new section is added to chapter 71.24 RCW to read as follows:

(1) Beginning January 1, 2027, a person who engages in the practice of peer support services and who bills a health carrier or medical assistance or whose employer bills a health carrier or medical assistance for those services must hold an active credential as a certified peer specialist or certified peer specialist trainee under chapter 18.--- RCW (the new chapter created in section 22 of this act).

(2) A person who is registered as an agency-affiliated counselor under chapter 18.19 RCW who engages in the practice of peer support services and whose agency, as defined in RCW 18.19.020, bills medical assistance for those services must hold a certificate as a certified peer specialist or certified peer specialist trainee under chapter 18.--- RCW (the new chapter created in section 22 of this act) no later than January 1, 2027.

NEW SECTION. Sec. 16. A new section is added to chapter 48.43 RCW to read as follows:

By July 1, 2026, each carrier shall provide access to services provided by certified peer specialists and certified peer specialist trainees in a manner sufficient to meet the network access standards set forth in rules established by the office of the insurance commissioner.

Sec. 17. RCW 18.130.040 and 2021 c 179 s 7 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates— independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ((and))

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Certified peer specialists and certified peer specialist trainees under chapter 18.--- RCW (the new chapter created in section 22 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

Sec. 18. RCW 18.130.040 and 2022 c 217 s 5 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates— independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW;

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; ~~((and))~~

(xxvii) Birth doula certified under chapter 18.47 RCW; and

(xxviii) Certified peer specialists and certified peer specialist trainees under chapter 18.--- RCW (the new chapter created in section 22 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

Sec. 19. RCW 18.130.175 and 2022 c 43 s 10 are each amended to read as follows:

(1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of an applicable impairing or potentially impairing health condition, the disciplining authority may refer the license holder to a physician health program or a voluntary substance use disorder monitoring program approved by the disciplining authority.

The cost of evaluation and treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Evaluation and treatment shall be provided by providers approved by the entity or the commission. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the physician health program or voluntary substance use disorder monitoring program shall be done only with the consent of the license holder. Referral to the physician health program or voluntary substance use disorder monitoring program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160 which includes suspension of the license unless or until the disciplining authority, in consultation with the director of the applicable program, determines the license holder is able to practice safely. The secretary shall adopt uniform rules for the evaluation by the disciplining authority of return to substance use or program violation on the part of a license holder in the program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplining authority determines that the license holder is able to continue to practice with reasonable skill and safety.

(2) In addition to approving the physician health program or the voluntary substance use disorder monitoring program that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority. License holders voluntarily participating in the approved programs without being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their impairing or potentially impairing health condition, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The physician health program or voluntary

substance use disorder program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

(4) Program records including, but not limited to, case notes, progress notes, laboratory reports, evaluation and treatment records, electronic and written correspondence within the program, and between the program and the participant or other involved entities including, but not limited to, employers, credentialing bodies, referents, or other collateral sources, relating to license holders referred to or voluntarily participating in approved programs are confidential and exempt from disclosure under chapter 42.56 RCW and shall not be subject to discovery by subpoena or admissible as evidence except:

(a) To defend any civil action by a license holder regarding the restriction or revocation of that individual's clinical or staff privileges, or termination of a license holder's employment. In such an action, the program will, upon subpoena issued by either party to the action, and upon the requesting party seeking a protective order for the requested disclosure, provide to both parties of the action written disclosure that includes the following information:

(i) Verification of a health care professional's participation in the physician health program or voluntary substance use disorder monitoring program as it relates to aspects of program involvement at issue in the civil action;

(ii) The dates of participation;

(iii) Whether or not the program identified an impairing or potentially impairing health condition;

(iv) Whether the health care professional was compliant with the requirements of the physician health program or voluntary substance use disorder monitoring program; and

(v) Whether the health care professional successfully completed the physician health program or voluntary substance use disorder monitoring program; and

(b) Records provided to the disciplining authority for cause as described in subsection (3) of this section. Program records relating to license holders mandated to the program, through order or by stipulation, by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, must be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section are exempt from chapter 42.56 RCW and are not subject to discovery by subpoena except by the license holder.

(5) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(6) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section, and applies to both license holders and students and trainees when students and trainees of the applicable professions are served by the program. The persons entitled to immunity shall include:

(i) An approved physician health program or voluntary substance use disorder monitoring program;

(ii) The professional association affiliated with the program;

(iii) Members, employees, or agents of the program or associations;

(iv) Persons reporting a license holder as being possibly impaired or providing information about the license holder's impairment; and

(v) Professionals supervising or monitoring the course of the program participant's treatment or rehabilitation.

(b) The courts are strongly encouraged to impose sanctions on program participants and their attorneys whose allegations under this subsection are not made in good faith and are without either reasonable objective, substantive grounds, or both.

(c) The immunity provided in this section is in addition to any other immunity provided by law.

(7) In the case of a person who is applying to be a substance use disorder professional or substance use disorder professional trainee certified under chapter 18.205 RCW, an agency affiliated counselor registered under chapter 18.19 RCW, or a peer specialist or peer specialist trainee certified under chapter 18.--- RCW (the new chapter created in section 22 of this act), if the person is:

(a) Less than one year in recovery from a substance use disorder, the duration of time that the person may be required to participate in an approved substance use disorder monitoring program may not exceed the amount of time necessary for the person to achieve one year in recovery; or

(b) At least one year in recovery from a substance use disorder, the person may not be required to participate in the approved substance use disorder monitoring program.

(8) ~~((In the case of a person who is applying to be an agency affiliated counselor registered under chapter 18.19 RCW and practices or intends to practice as a peer counselor in an agency, as defined in RCW 18.19.020, if the person is:~~

~~(a) Less than one year in recovery from a substance use disorder, the duration of time that the person may be required to participate in the approved substance use disorder monitoring program may not exceed~~

~~the amount of time necessary for the person to achieve one year in recovery; or~~

~~(b) At least one year in recovery from a substance use disorder, the person may not be required to participate in the approved substance use disorder monitoring program))The provisions of subsection (7) of this section apply to any person employed as a peer specialist as of July 1, 2025, participating in a program under this section as of July 1, 2025, and applying to become a certified peer specialist under section 7 of this act, regardless of when the person's participation in a program began. To this extent, subsection (7) of this section applies retroactively, but in all other respects it applies prospectively.~~

Sec. 20. RCW 43.43.842 and 2021 c 215 s 150 are each amended to read as follows:

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active vulnerable adult protection order under chapter 7.105 RCW, nor have been: (i) Convicted of a crime against children or other persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult as defined in RCW 43.43.830.

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(f) The department of social and health services reviewed the employee's otherwise disqualifying criminal history through the department of social and health services' background assessment review team process conducted in 2002, and determined that such employee could remain in a position covered by this section; or

(g) The otherwise disqualifying conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure.

The offenses set forth in (a) through (g) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) The rules adopted pursuant to subsection (2) of this section may not allow a licensee to automatically deny an applicant with a conviction for an offense set forth in subsection (2) of this section for a position as a substance use disorder professional or substance use disorder professional trainee certified under chapter 18.205 RCW, as an agency affiliated counselor registered under chapter 18.19 RCW practicing as a peer counselor in an agency or facility, or as a peer specialist or peer specialist trainee certified under chapter 18.--- RCW (the new chapter created in section 22 of this act), if:

(a) At least one year has passed between the applicant's most recent conviction for an offense set forth in subsection (2) of this section and the date of application for employment;

(b) The offense was committed as a result of the applicant's substance use or untreated mental health symptoms; and

(c) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from a mental health disorder.

~~(4) ((The rules adopted pursuant to subsection (2) of this section may not allow a licensee to automatically deny an applicant with a conviction for an offense set forth in subsection (2) of this section for a position as an agency affiliated counselor registered under chapter 18.19 RCW practicing as a peer counselor in an agency or facility if:~~

~~(a) At least one year has passed between the applicant's most recent conviction for an offense set forth in subsection (2) of this section and the date of application for employment;~~

~~(b) The offense was committed as a result of the person's substance use or untreated mental health symptoms; and~~

~~(c) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from mental health challenges.~~

(5)) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose.

Sec. 21. RCW 43.70.250 and 2019 c 415 s 966 are each amended to read as follows:

(1) It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business.

(2) The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. Any and all fees or assessments, or both, levied on the state to cover the costs of the operations and activities of the interstate health professions licensure compacts with participating authorities listed under chapter 18.130 RCW shall be borne by the persons who hold licenses issued pursuant to the authority and procedures established under the compacts. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program and the cost of regulating licensed volunteer medical workers in accordance with RCW 18.130.360, except as provided in RCW 18.79.202. In no case may the secretary (~~increase a licensing fee for an ambulatory surgical facility licensed under chapter 70.230 RCW during the 2019-2021 fiscal biennium, nor may he or she commence the adoption of rules to increase a licensing fee during the 2019-2021 fiscal biennium~~) impose any certification, examination, or renewal fee upon a person seeking certification as a certified peer specialist trainee under chapter 18.--- RCW (the new chapter created in section 22 of this act) or, between July 1, 2025, and July 1, 2030, impose a certification, examination, or renewal fee of more than

\$100 upon any person seeking certification as a certified peer specialist under chapter 18.--- RCW (the new chapter created in section 22 of this act).

(3) All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 22. Sections 1 through 12 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 23. Section 17 of this act expires October 1, 2023.

NEW SECTION. Sec. 24. Section 18 of this act takes effect October 1, 2023.

NEW SECTION. Sec. 25. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Davis; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Senn; Simmons; Slatter; Steele; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Couture; Dye; and Schmick.

Referred to Committee on Rules for second reading

April 4, 2023

E2SSB 5580 Prime Sponsor, Ways & Means: Improving maternal health outcomes. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 74.09 RCW to read as follows:

(1) By no later than January 1, 2025, the authority shall create a postdelivery and transitional care program that allows for extended postdelivery hospital care for people with a substance use disorder at the time of delivery. The authority shall:

(a) Allow for up to five additional days of hospitalization stay for the birth parent;

(b) Provide the birth parent access to integrated care and medical services including, but not limited to, access to clinical health, medication management, behavioral health, addiction medicine,

specialty consultations, and psychiatric providers;

(c) Provide the birth parent access to social work support which includes coordination with the department of children, youth, and families to develop a plan for safe care;

(d) Allow dedicated time for health professionals to assist in facilitating early bonding between the birth parent and infant by helping the birth parent recognize and respond to their infant's cues; and

(e) Establish provider requirements and pay only those qualified providers for the services provided through the program.

(2) In administering the program, the authority shall 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.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

(1) Subject to the amounts appropriated for this specific purpose, the authority shall update the maternity support services program to address perinatal outcomes and increase equity and healthier birth outcomes. By January 1, 2025, the authority shall:

(a) Update current screening tools to be culturally relevant, include current risk factors, ensure the tools address health equity, and include questions identifying various social determinants of health that impact a healthy birth outcome and improve health equity;

(b) Ensure care coordination, including sharing screening tools with the patient's health care providers as necessary;

(c) Develop a mechanism to collect the results of the maternity support services screenings and evaluate the outcomes of the program. At minimum, the program evaluation shall:

(i) Identify gaps, strengths, and weaknesses of the program; and

(ii) Make recommendations for how the program may improve to better align with the authority's maternal and infant health initiatives; and

(d) Increase the allowable benefit and reimbursement rates with the goal of increasing utilization of services to all eligible maternity support services clients who choose to receive the services.

(2) The authority shall adopt rules to implement this section.

NEW SECTION. Sec. 3. A new section is added to chapter 74.09 RCW to read as follows:

By November 1, 2023, the income standards for a pregnant person eligible for Washington apple health pregnancy coverage shall have countable income equal to or below 210 percent of the federal poverty level.

Sec. 4. RCW 74.09.830 and 2021 c 90 s 2 are each amended to read as follows:

(1) The authority shall extend health care coverage from 60 days postpartum to one year postpartum for pregnant or postpartum persons who, on or after the expiration date of the federal public health emergency declaration related to COVID-19, are receiving postpartum coverage provided under this chapter.

(2) By June 1, 2022, the authority must:

(a) Provide health care coverage to postpartum persons who reside in Washington state, have countable income equal to or below 193 percent of the federal poverty level, and are not otherwise eligible under Title XIX or Title XXI of the federal social security act; and

(b) Ensure all persons approved for pregnancy or postpartum coverage at any time are continuously eligible for postpartum coverage for 12 months after the pregnancy ends regardless of whether they experience a change in income during the period of eligibility.

(3) By November 1, 2023, the income standards for a postpartum person eligible for Washington apple health pregnancy or postpartum coverage shall have countable income equal to or below 210 percent of the federal poverty level.

(4) Health care coverage under this section must be provided during the 12-month period beginning on the last day of the pregnancy.

~~((4))~~ (5) The authority shall not provide health care coverage under this section to individuals who are eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act. Health care coverage for these individuals shall be provided by a program that is funded by Title XIX or Title XXI of the federal social security act. Further, the authority shall make every effort to expedite and complete eligibility determinations for individuals who are presumptively eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act to ensure the state is receiving the maximum federal match. This includes, but is not limited to, working with the managed care organizations to provide continuous outreach in various modalities until the individual's eligibility determination is completed. Beginning January 1, 2022, the authority must submit quarterly reports to the caseload forecast work group on the number of individuals who are presumptively eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act but are awaiting for the authority to complete eligibility determination, the number of individuals who were presumptively eligible but are now receiving health care coverage with the maximum federal match under Title XIX or Title XXI of the federal social security act, and outreach activities including the work with managed care organizations.

~~((5))~~ (6) To ensure continuity of care and maximize the efficiency of the program, the amount and scope 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.

((+6+)) (7) In administering this program, the authority must 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. This includes, but is not limited to, ensuring the state is receiving the maximum federal match for individuals who are presumptively eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act by expediting completion of the individual's eligibility determination.

((+7+)) (8) Working with stakeholder and community organizations and the Washington health benefit exchange, the authority must establish a comprehensive community education and outreach campaign to facilitate applications for and enrollment in the program or into a more appropriate program where the state receives maximum federal match. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach campaign must provide culturally and linguistically accessible information to facilitate participation in the program, including but not limited to enrollment procedures, program services, and benefit utilization.

((+8+)) (9) Beginning January 1, 2022, the managed care organizations contracted with the authority to provide postpartum coverage must annually report to the legislature on their work to improve maternal health for enrollees, including but not limited to postpartum services offered to enrollees, the percentage of enrollees utilizing each postpartum service offered, outreach activities to engage enrollees in available postpartum services, and efforts to collect eligibility information for the authority to ensure the enrollee is in the most appropriate program for the state to receive the maximum federal match.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

E2SSB 5582

Prime Sponsor, Ways & Means: Reducing barriers and expanding educational opportunities to increase the supply of nurses in Washington. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 4, 2023

ESSB 5583

Prime Sponsor, Transportation: Improving young driver safety. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 46.20 RCW to read as follows:

(1)(a) Beginning July 1, 2025, to obtain a driver's license under this section, a person at least 18 years of age but under 21 years of age must, in addition to other skills and examination requirements as prescribed by the department, satisfactorily complete one of the driver training education course options provided in (c) of this subsection.

(b) Beginning July 1, 2028, a person at least 21 years of age but under 25 years of age must, in addition to other skills and examination requirements as prescribed by the department, satisfactorily complete one of the driver training education course options provided in (c) of this subsection.

(c) To satisfy the driver training education course requirements under (a) or (b) of this subsection, a person must complete one of the following:

(i) A driver training education course as defined in RCW 28A.220.020;

(ii) A driver training education course as defined by the department and offered by a driver training school licensed under chapter 46.82 RCW;

(iii) A condensed traffic safety education course as defined by the department and offered by a driver training school licensed under chapter 46.82 RCW; or

(iv) An online, self-paced condensed traffic safety education course as defined by the department and offered by a driver training school licensed under chapter 46.82 RCW. A person that satisfactorily completes an online, self-paced condensed traffic safety education course under this subsection (1)(a)(iv) must complete at least three hours of behind-the-wheel instruction.

(d) The course offered by a school district or an approved private school must be part of a traffic safety education

program authorized by the office of the superintendent of public instruction and certified under chapter 28A.220 RCW. The course offered by a driver training school and the online, self-paced condensed traffic safety education course must meet the standards established by the department under chapter 46.82 RCW.

(2) To meet the traffic safety education requirement for a motorcycle endorsement, the applicant must successfully complete a motorcycle safety education course that meets the standards established by the department.

(3)(a) The department may waive the driver training education course requirement for a driver's license under subsection (1) of this section if the applicant demonstrates to the department's satisfaction that:

(i) He or she was unable to take or complete a driver training education course;

(ii) A need exists for the applicant to operate a motor vehicle; and

(iii) He or she has the ability to operate a motor vehicle in such a manner as not to jeopardize the safety of persons or property.

(b) The department may adopt rules to implement this subsection (3) in concert with the supervisor of the traffic safety education section of the office of the superintendent of public instruction.

(4) The department may waive the driver training education course requirement if the applicant was licensed to drive a motor vehicle or motorcycle from a reciprocal jurisdiction outside this state or provides proof that they have had education, from a reciprocal jurisdiction, equivalent to that required under this section.

(5) The department is required to provide broad and accessible public outreach and education, to begin no later than January 1, 2025, to communicate to Washington state residents the driver training education requirements mandated under this section and to provide tools to assist them in accessing driver training education courses, condensed traffic safety education courses, and online, self-paced condensed traffic safety education courses, that satisfy the requirements of subsection (1) of this section.

(6) The department must provide updates on the implementation of these new requirements, including an assessment of progress made by the department on preparations for the new requirements taking effect and public and private resource availability for the expansion of driver training education requirements. These updates are required to include the total number of licensed driver training schools and traffic safety education programs in the state, by geographical region; the number of licensed driver trainer school instructors; the number of licensed driver trainer instructors; and plans for satisfying the public outreach and education requirements of subsection (5) of this section. These updates must be provided to the transportation committees of the legislature by January 2, 2024, and January 2, 2025.

(7) The department, in coordination with the Washington state traffic safety

commission, must provide an annual report to the transportation committees of the legislature by July 1, 2027, and July 1, 2028. The annual reports must include updates on program implementation related to the new requirements; traffic safety impacts resulting from the new requirements; and feedback that the department has received from the public on the new requirements, including through public outreach efforts.

Sec. 2. RCW 46.20.075 and 2011 c 60 s 44 are each amended to read as follows:

(1) An intermediate license authorizes the holder to drive a motor vehicle under the conditions specified in this section. An applicant for an intermediate license must be at least ~~((sixteen))~~ 16 years of age and:

(a) Have possessed a valid instruction permit for a period of not less than six months;

(b) Have passed a driver licensing examination administered by the department;

(c) Have passed a course of driver's education in accordance with the standards established in RCW 46.20.100;

(d) Present certification by his or her parent, guardian, or employer to the department stating (i) that the applicant has had at least ~~((fifty))~~ 50 hours of driving experience, ~~((ten))~~ 10 of which were at night, during which the driver was supervised by a person at least ~~((twenty-one))~~ 21 years of age who has had a valid driver's license for at least three years, and (ii) that the applicant has not been issued a notice of traffic infraction or cited for a traffic violation that is pending at the time of the application for the intermediate license;

(e) Not have been convicted of or found to have committed a traffic violation within the last six months before the application for the intermediate license; and

(f) Not have been adjudicated for an offense involving the use of alcohol or drugs during the period the applicant held an instruction permit.

(2) For the first six months after the issuance of an intermediate license or until the holder reaches ~~((eighteen))~~ 18 years of age, whichever occurs first, the holder of the license may not operate a motor vehicle that is carrying any passengers under the age of ~~((twenty))~~ 20 who are not members of the holder's immediate family as defined in RCW 42.17A.005. For the remaining period of the intermediate license, the holder may not operate a motor vehicle that is carrying more than three passengers who are under the age of ~~((twenty))~~ 20 who are not members of the holder's immediate family.

(3) The holder of an intermediate license may not operate a motor vehicle between the hours of 1 a.m. and 5 a.m. except (a) when the holder is accompanied by ((a parent, guardian, or)) a licensed driver who is at least ((twenty-five)) 25 years of age, or (b) for school, religious, or employment activities for the holder or a member of the holder's immediate family as defined in RCW 42.17A.005.

(4) The holder of an intermediate license may not operate a moving motor vehicle while using a wireless communications device

unless the holder is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property.

(5) It is a traffic infraction for the holder of an intermediate license to operate a motor vehicle in violation of the restrictions imposed under this section.

(6) Except for a violation of subsection (4) of this section, enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.

(7) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if necessary for agricultural purposes.

(8) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if, for the ~~((twelve-month))~~ 12-month period following the issuance of the intermediate license, he or she:

(a) Has not been involved in an accident involving only one motor vehicle;

(b) Has not been involved in an accident where he or she was cited in connection with the accident or was found to have caused the accident;

(c) Has not been involved in an accident where no one was cited or was found to have caused the accident; and

(d) Has not been convicted of or found to have committed a traffic offense described in chapter 46.61 RCW or violated restrictions placed on an intermediate licensee under this section.

Sec. 3. RCW 46.20.100 and 2017 c 197 s 7 are each amended to read as follows:

(1) **Application.** The application of a person under the age of ~~((eighteen))~~ 18 years for a driver's license or a motorcycle endorsement must be signed by a parent or guardian with custody of the minor. If the person under the age of ~~((eighteen))~~ 18 has no father, mother, or guardian, then the application must be signed by the minor's employer.

(2) **Traffic safety education requirement.** For a person under the age of ~~((eighteen))~~ 18 years to obtain a driver's license, he or she must meet the traffic safety education requirements of this subsection.

(a) To meet the traffic safety education requirement for a driver's license, the applicant must satisfactorily complete a driver training education course as defined in RCW 28A.220.020 for a course offered by a school district or approved private school, or as defined by the department of licensing for a course offered by a driver training school licensed under chapter 46.82 RCW. The course offered by a school district or an approved private school must be part of a traffic safety education program authorized by the office of the superintendent of public instruction and certified under chapter 28A.220 RCW. The course offered by a driver training school must meet the standards established by the department of licensing under chapter 46.82 RCW. The

driver training education course may be provided by:

(i) A secondary school within a school district or approved private school that establishes and maintains an approved and certified traffic safety education program under chapter 28A.220 RCW; or

(ii) A driver training school licensed under chapter 46.82 RCW that is annually approved by the department of licensing.

(b) To meet the traffic safety education requirement for a motorcycle endorsement, the applicant must successfully complete a motorcycle safety education course that meets the standards established by the department of licensing.

(c) The department may waive the driver training education course requirement for a driver's license if the applicant demonstrates to the department's satisfaction that:

(i) He or she was unable to take or complete a driver training education course;

(ii) A need exists for the applicant to operate a motor vehicle; and

(iii) He or she has the ability to operate a motor vehicle in such a manner as not to jeopardize the safety of persons or property.

The department may adopt rules to implement this subsection (2)(c) in concert with the supervisor of the traffic safety education section of the office of the superintendent of public instruction.

(d) The department may waive the driver training education course requirement if the applicant was licensed to drive a motor vehicle or motorcycle from a reciprocal jurisdiction outside this state ~~((and))~~ or provides proof that he or she has had education equivalent, from a reciprocal jurisdiction, to that required under this subsection.

Sec. 4. RCW 46.82.280 and 2017 c 197 s 8 are each amended to read as follows:

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

(1) "Behind-the-wheel instruction" means instruction in an approved driver training school instruction vehicle according to and inclusive of the required curriculum. Behind-the-wheel instruction is characterized by driving experience.

(2) "Classroom" means a space dedicated to and used exclusively by a driver training instructor for the instruction of students. With prior department approval, a branch office classroom may be located within alternative facilities, such as a public or private library, school, community college, college or university, or a business training facility.

(3) "Classroom instruction" means that portion of a traffic safety education course that is characterized by in-person classroom-based student instruction or virtual classroom-based student instruction with a live instructor using the required curriculum conducted by or under the direct supervision of a licensed instructor or licensed instructors. Classroom instruction may include self-paced, online components as

authorized and certified by the department of licensing.

~~((4))~~ (6) "Condensed traffic safety education course" means a course of instruction in traffic safety education, intended for novice drivers at least 18 years of age but under 25 years of age, approved and licensed by the department of licensing that consists of at least eight hours of classroom instruction and three hours of behind-the-wheel instruction that follows the approved curriculum as determined in rule.

~~((5))~~ (7) "Director" means the director of the department of licensing of the state of Washington.

~~((5))~~ (6) "Driver training education course" means a course of instruction in traffic safety education approved and licensed by the department of licensing that consists of classroom and behind-the-wheel instruction that follows the approved curriculum.

~~((6))~~ (7) "Driver training school" means a commercial driver training school engaged in the business of giving instruction, for a fee, in the operation of automobiles.

~~((7))~~ (8) "Enrollment" means the collecting of a fee or the signing of a contract for a driver training education course. "Enrollment" does not include the collecting of names and contact information for enrolling students once a driver training school is licensed to instruct.

~~((8))~~ (9) "Fraudulent practices" means any conduct or representation on the part of a driver training school owner or instructor including:

(a) Inducing anyone to believe, or to give the impression, that a license to operate a motor vehicle or any other license granted by the director may be obtained by any means other than those prescribed by law, or furnishing or obtaining the same by illegal or improper means, or requesting, accepting, or collecting money for such purposes;

(b) Operating a driver training school without a license, providing instruction without an instructor's license, verifying enrollment prior to being licensed, misleading or false statements on applications for a commercial driver training school license or instructor's license or on any required records or supporting documentation;

(c) Failing to fully document and maintain all required driver training school records of instruction, school operation, and instructor training;

(d) Issuing a driver training course certificate without requiring completion of the necessary behind-the-wheel and classroom instruction.

~~((9))~~ (10) "Instructor" means any person employed by or otherwise associated with a driver training school to instruct persons in the operation of an automobile.

~~((10))~~ (11) "Owner" means an individual, partnership, corporation, association, or other person or group that holds a substantial interest in a driver training school.

~~((11))~~ (12) "Person" means any individual, firm, corporation, partnership, or association.

~~((12))~~ (13) "Place of business" means a designated location at which the business of a driver training school is transacted or its records are kept.

~~((13))~~ (14) "Student" means any person enrolled in an approved driver training course.

~~((14))~~ (15) "Substantial interest holder" means a person who has actual or potential influence over the management or operation of any driver training school. Evidence of substantial interest includes, but is not limited to, one or more of the following:

(a) Directly or indirectly owning, operating, managing, or controlling a driver training school or any part of a driver training school;

(b) Directly or indirectly profiting from or assuming liability for debts of a driver training school;

(c) Is an officer or director of a driver training school;

(d) Owning ~~((ten))~~ 10 percent or more of any class of stock in a privately or closely held corporate driver training school, or five percent or more of any class of stock in a publicly traded corporate driver training school;

(e) Furnishing ~~((ten))~~ 10 percent or more of the capital, whether in cash, goods, or services, for the operation of a driver training school during any calendar year; or

(f) Directly or indirectly receiving a salary, commission, royalties, or other form of compensation from the activity in which a driver training school is or seeks to be engaged.

Sec. 5. RCW 46.82.330 and 2017 c 197 s 10 are each amended to read as follows:

(1) The application for an instructor's license shall document the applicant's fitness, knowledge, skills, and abilities to teach the classroom and behind-the-wheel instruction portions of a driver training education program in a commercial driver training school.

(2) An applicant shall be eligible to apply for an original instructor's certificate if the applicant possesses and meets the following qualifications and conditions:

(a) Has been licensed to drive for five or more years and possesses a current and valid Washington driver's license or is a resident of a jurisdiction immediately adjacent to Washington state and possesses a current and valid license issued by such jurisdiction, and does not have on his or her driving record any of the violations or penalties set forth in (a)(i), (ii), or (iii) of this subsection. The director shall have the right to examine the driving record of the applicant from the department of licensing and from other jurisdictions and from these records determine if the applicant has had:

(i) Not more than one moving traffic violation within the preceding twelve months or more than two moving traffic violations in the preceding ~~((twenty-four))~~ 24 months;

(ii) No drug or alcohol-related traffic violation or incident within the preceding three years. If there are two or more drug

or alcohol-related traffic violations in the applicant's driving history, the applicant is no longer eligible to be a driving instructor; and

(iii) No driver's license suspension, cancellation, revocation, or denial within the preceding two years, or no more than two of these occurrences in the preceding five years;

(b) Is a high school graduate or the equivalent and at least ~~((twenty-one))~~ 21 years of age;

(c) Has completed an acceptable application on a form prescribed by the director;

(d) Has satisfactorily completed a course of instruction in the training of drivers acceptable to the director that is no less than ~~((sixty))~~ 60 hours in length and includes instruction in classroom and behind-the-wheel teaching methods and supervised practice behind-the-wheel teaching of driving techniques; and

(e) Has paid an examination fee as set by rule of the department and has successfully completed an instructor's examination.

(3) The department may develop rules to establish alternative pathways to licensure to substitute for subsection (2) of this section provided the alternative pathways enable the department to assess the applicant's fitness, knowledge, skill, and ability to teach the classroom and behind-the-wheel instruction portions of a driver training education program and behind-the-wheel instructor certification include behind-the-wheel teaching methods and supervised practice behind-the-wheel teaching of driving techniques.

NEW SECTION. Sec. 6. A new section is added to chapter 46.82 RCW to read as follows:

(1) The department must publish on its website an interactive map of all driver training education course providers and providers of a traffic safety education program as defined in RCW 28A.220.020, including driver, motorcyclist, and commercial driver training and testing providers certified by the department. The interactive map, at a minimum, must provide training and testing provider names, locations, contact information, course and program pricing, and services offered by language.

(2) Each driving training education course and traffic safety education program provider must report course and program pricing to the department on an annual basis.

NEW SECTION. Sec. 7. A new section is added to chapter 46.82 RCW to read as follows:

(1) Beginning July 1, 2025, and subject to the availability of funds appropriated in the omnibus transportation appropriations act for this specific purpose, the department must establish a program to provide vouchers to cover the average cost of driver training education courses for novice drivers who reside in low-income households.

(2) In consultation with the Washington traffic safety commission, the department shall adopt rules establishing eligibility criteria and application and award procedures, and any other necessary rules, for implementing this section.

(3) An applicant who has previously received financial support to complete a driver training program under RCW 74.13.338(2)(b) or 49.04.290 is deemed ineligible for a voucher under this section.

(4) A driver training school may not increase driver training education course costs or fees to offset any voucher amounts provided by school applicants.

(5) By January 1, 2024, the department shall provide to the appropriate committees of the legislature an implementation plan for the voucher program. On a biennial basis beginning June 30, 2026, the department shall report to the appropriate committees of the legislature the following:

(a) The income criteria used to determine voucher awards for driver training education courses;

(b) The number of applicants for driver training education vouchers annually by county;

(c) The number of vouchers awarded annually by county;

(d) The number of vouchers redeemed annually by county;

(e) The dollar amount of vouchers redeemed annually by county; and

(f) The community average income of voucher recipients during the reporting period.

(6) For the purposes of this section, "novice driver" means a person who has not previously obtained a license to drive a motor vehicle.

NEW SECTION. Sec. 8. A new section is added to chapter 28A.220 RCW to read as follows:

(1) Beginning July 1, 2025, and subject to the availability of funds appropriated in the omnibus transportation appropriations act for this specific purpose, including for program development and implementation activities, the superintendent of public instruction must establish a grant program to allow schools to initiate or reinstate traffic safety education programs as part of their course offerings, as well as to support existing traffic safety education programs in schools.

(2) The superintendent shall adopt rules establishing eligibility criteria, and the grant application and award procedures, for implementing this section. The eligibility criteria must prioritize school districts in overburdened communities as defined in RCW 70A.02.010 and school districts with above average concentrations of students eligible for free or reduced-price lunches. The superintendent must include as a condition of grant eligibility agreement by the school district to provide the office of the superintendent of public instruction with the information, in a form and manner specified by the office, required by the office to comply with subsection (3) of this section.

(3) By January 1, 2024, the superintendent shall provide to the appropriate committees of the legislature an implementation plan for the grant program. On a biennial basis beginning June 30, 2026, the superintendent shall report to the appropriate committees of the legislature on the following:

(a) The grant amounts provided to each school district or school;

(b) The number of school districts or schools offering traffic safety education programs;

(c) The number of students receiving traffic safety instruction in those programs;

(d) The number of students eligible for free or reduced-price lunch receiving traffic safety instruction in those programs; and

(e) An assessment of the equity impacts in overburdened communities resulting from this section.

NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.220 RCW to read as follows:

Subject to the availability of funds appropriated in the omnibus transportation appropriations act for this specific purpose, the legislature encourages educational service districts to facilitate the coordination between school districts or secondary schools of a school district and driver training schools to increase access to driver training education courses by students who reside within the boundaries of the applicable school district.

NEW SECTION. **Sec. 10.** A new section is added to chapter 42.56 RCW to read as follows:

Any recipient income data collected by the department of licensing as part of the driver training education course voucher program established under section 7 of this act is exempt from disclosure under this chapter.

NEW SECTION. **Sec. 11.** A new section is added to chapter 43.06D RCW to read as follows:

Subject to the availability of funds appropriated in the omnibus transportation appropriations act for this specific purpose, the office shall prepare an assessment of opportunities to improve access to driver training education for young drivers to meet the requirements of section 1 of this act. The assessment must address potential obstacles to meeting this requirement including, but not limited to, obstacles for young drivers for whom the cost of driver training education may pose a hardship, obstacles related to accessibility for young drivers who reside in rural areas, and obstacles for young drivers whose primary language is not English. The assessment must also recommend strategies through which these potential obstacles may be mitigated.

NEW SECTION. **Sec. 12.** A new section is added to chapter 39.19 RCW to read as follows:

Subject to the availability of funds appropriated in the omnibus transportation appropriations act for this specific purpose, the office shall develop a program to foster the development of women, minority-owned, and veteran-owned licensed driver training schools in the state, including through instruction on topics relevant to owning and operating a licensed driver training school.

Sec. 13. RCW 46.20.1201 and 2021 c 240 s 13 are each amended to read as follows:

(1) An additional \$1 fee shall be imposed on each application for an original or renewal of a regular driver's license, regular identicard, enhanced driver's license, or enhanced identicard. The entire amount of the fee shall be used to pay for processing costs for driver's license issuance and reinstatements, and information technology upgrades and the ongoing costs to maintain the driver's license and identicard record and issuance system.

(2) Beginning October 1, 2023, an additional \$7.50 fee shall be imposed on each application for an original or renewal of a regular driver's license, regular identicard, enhanced driver's license, or enhanced identicard. The department shall forward all funds accruing under this ~~((section))~~ subsection to the state treasurer who shall deposit the moneys ~~((to the credit of the highway safety fund))~~ as specified in RCW 46.68.041.

Sec. 14. RCW 46.20.055 and 2021 c 158 s 3 are each amended to read as follows:

(1) **Driver's instruction permit.** The department may issue a driver's instruction permit online or in person with or without a photograph to an applicant who has successfully passed all parts of the examination other than the driving test, provided the information required by RCW 46.20.091, paid an application fee of ~~((twenty-five dollars))~~ \$25, and meets the following requirements:

(a) Is at least ~~((fifteen and one-half))~~ 15.5 years of age; or

(b) Is at least ~~((fifteen))~~ 15 years of age and:

(i) Has submitted a proper application; and

(ii) Is enrolled in a driver training education course offered as part of a traffic safety education program authorized by the office of the superintendent of public instruction and certified under chapter 28A.220 RCW or offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW, that includes practice driving.

(2) **Waiver of written examination for instruction permit.** The department may waive the written examination, if, at the time of application, an applicant is enrolled in a driver training education course or condensed traffic safety education course as defined in RCW 46.82.280 ((or 28A.220.020)).

The department may require proof of registration in such a course as it deems necessary.

(3) **Effect of instruction permit.** A person holding a driver's instruction permit may drive a motor vehicle, other than a motorcycle, upon the public highways if:

(a) The person has immediate possession of the permit;

(b) The person is not using a wireless communications device, unless the person is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property; and

(c) A driver training education course instructor who meets the qualifications of chapter 46.82 or 28A.220 RCW, or a licensed driver with at least five years of driving experience, occupies the seat beside the driver.

(4) **Term of instruction permit.** A driver's instruction permit is valid for one year from the date of issue.

(a) The department may issue one additional one-year permit.

(b) The department may issue a third driver's permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.

(c) A person applying for an additional instruction permit must submit the application to the department and pay an application fee of ~~((twenty-five dollars))~~ \$25 for each issuance.

Sec. 15. RCW 46.68.041 and 2022 c 182 s 210 are each amended to read as follows:

(1) Except as provided in subsections (2) ~~((and (3)))~~ through (4) of this section, the department must forward all funds accruing under the provisions of chapter 46.20 RCW together with a proper identifying, detailed report to the state treasurer who must deposit such moneys to the credit of the highway safety fund.

(2) Fifty-six percent of each fee collected by the department under RCW 46.20.311 (1)(e)(ii), (2)(b)(ii), and (3)(b) must be deposited in the impaired driving safety account.

(3) Fifty percent of the revenue from the fees imposed under RCW 46.20.200(2) must be deposited in the move ahead WA flexible account created in RCW 46.68.520.

(4) Beginning October 1, 2023, \$7.50 of the fee imposed under RCW 46.20.1201 must be deposited into the driver's education safety improvement account created in section 16 of this act.

NEW SECTION. Sec. 16. A new section is added to chapter 46.20 RCW to read as follows:

The driver's education safety improvement account is created in the state treasury. A portion of the fee imposed under RCW 46.20.1201 must be deposited in the account. The account may also receive a portion of the revenue from traffic infraction fines as designated by the legislature. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for the support of driver education programs and activities that

primarily serve people under the age of 25, including for efforts to increase young driver access to driver education.

Sec. 17. RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river

basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the driver's education safety improvement account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget

Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund

shall be allocated to their respective beneficiary accounts.

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

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

Sec. 18. RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the

Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal, and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the driver's education safety improvement account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal

justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving

administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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

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

NEW SECTION. **Sec. 19.** Section 17 of this act expires July 1, 2024.

NEW SECTION. **Sec. 20.** Section 18 of this act takes effect July 1, 2024."

Correct the title.

Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Barkis, Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Doglio; Duerr; Entenman; Hackney; Mena; Ramel; Ramos; Taylor and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt; Volz; and Walsh.

MINORITY recommendation: Without recommendation. Signed by Representatives Paul, Vice Chair; Timmons, Vice Chair; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Dent; Goehner; Griffey; and Klicker.

Referred to Committee on Rules for second reading

April 1, 2023

ESB 5592

Prime Sponsor, Senator Hunt: Requiring semiautomatic external defibrillator at fitness centers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW to read as follows:

(1) The owner of a fitness center shall acquire and maintain at least one semiautomatic external defibrillator on premises.

(2) The fitness center must comply with the requirements of RCW 70.54.310, including instruction of personnel on the use of the defibrillator, maintenance of the defibrillator, and notification of the local emergency medical services organization about the location of the defibrillator.

(3) An employee of a fitness center who has completed the instruction required under RCW 70.54.310 may render emergency care or treatment using a semiautomatic external defibrillator on the fitness center premises.

(4) A person who uses a semiautomatic external defibrillator at the scene of an emergency is immune from civil liability pursuant to RCW 70.54.310.

(5) (a) "Fitness center" means any premises used for recreation, instruction, training, physical exercise, body building, weight loss, figure development, martial arts, or other similar activity, that offers access on a membership basis.

(b) "Fitness center" does not include: (i) Public common schools, private schools approved under RCW 28A.195.010, and public or private institutions of higher education; and (ii) private facilities operated out of a home that do not offer memberships.

NEW SECTION. Sec. 2. This act takes effect January 1, 2025."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Davis; Fitzgibbon; Hansen; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler; Rude; and Schmick.

MINORITY recommendation: Without recommendation. Signed by Representatives Stokesbary, Ranking Minority Member; Connors; Couture; Dye; Harris; Sandlin; and Steele.

Referred to Committee on Rules for second reading

April 3, 2023

2SSB 5593 Prime Sponsor, Ways & Means: Improving equity in the transfer of student data between K-12 schools and institutions of higher education. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28B.10 RCW to read as follows:

(1) Institutions of higher education must enter into data-sharing agreements with the office of the superintendent of public instruction to facilitate the transfer of

high school student directory information collected under section 2 of this act for the purposes of informing Washington high school students of postsecondary educational opportunities available in the state.

(2) Data-sharing agreements entered into under this section must provide for the sharing of student enrollment and outcome information from institutions of higher education, including institutions of higher education that are participating in data-sharing agreements under subsection (5) of this section, to the office of the superintendent of public instruction. Information provided in accordance with this subsection (2) must include the statewide student identifier for each student. To the extent possible, the office of the superintendent of public instruction shall transmit student enrollment information to the enrolled students' host districts for the current year.

(3) (a) Data-sharing agreements entered into by a community college or technical college as defined in RCW 28B.50.030 are limited to informing Washington high school students of postsecondary educational opportunities available within a college's service district as enumerated in RCW 28B.50.040.

(b) The state board for community and technical colleges may coordinate with all of the community and technical colleges to develop a single data-sharing agreement between the community and technical colleges and the office of the superintendent of public instruction.

(4) Agreements entered into under this section must obligate institutions that will receive information through an agreement to maintain the statewide student identifier for each student.

(5) (a) Four-year, not-for-profit institutions of higher education that are authorized to participate in state financial aid programs under chapter 28B.92 RCW and not subject to subsection (1) of this section may enter into data-sharing agreements with the office of the superintendent of public instruction to facilitate the transfer of high school student directory information collected under section 2 of this act for the purposes of informing Washington high school students of postsecondary educational opportunities available in the state.

(b) An institution of higher education that enters into a data-sharing agreement under this subsection (5) must, as part of the agreement, pledge to comply with state and federal nondiscrimination laws applicable to hiring and admissions practices. If the office of the superintendent of public instruction determines that the institution of higher education, after the establishment of the data-sharing agreement, has not complied with state and federal nondiscrimination laws applicable to hiring and admissions practices, the office of the superintendent of public instruction may suspend or terminate the agreement.

(6) For the purposes of this section, "statewide student identifier" means the statewide student identifier required by RCW 28A.320.175 that is included in the

longitudinal student data system established under RCW 28A.300.500.

(7) For the purposes of this section, "directory information" has the same meaning as in section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.150 RCW to read as follows:

(1) Beginning in 2023, each school district that operates a high school shall annually transmit directory information for all enrolled high school students to the office of the superintendent of public instruction by November 1st.

(2) The office of the superintendent of public instruction must hold the high school student directory information collected under this section and make the information available for institutions of higher education.

(3) By no later than the beginning of the 2025-26 school year, the office of the superintendent of public instruction shall identify a process for making information provided in accordance with section 1(2) of this act on a student's enrollment in an institution of higher education available to the student's school district. The process identified under this subsection (3) must require that information provided to school districts include the statewide student identifier for each student.

(4) In transmitting student information under this section, school districts must comply with the consent procedures under RCW 28A.605.030, the federal family educational and privacy rights act of 1974 (20 U.S.C. Sec. 1232g), and all applicable rules and regulations.

(5) The student directory information data collected under this section is solely for the following purposes:

(a) College awareness and admissions at institutions of higher education; and

(b) Providing enrollment and outcome information to the office of the superintendent of public instruction and to school districts related to students from their respective school district under subsection (3) of this section.

(6) For the purposes of this section:

(a) "Directory information" means the names, addresses, email addresses, and telephone numbers of students and their parents or legal guardians;

(b) "Institutions of higher education" has the same meaning as in RCW 28B.10.016. However, for purposes of data-sharing agreements authorized under section 1(5) of this act, "institutions of higher education" means four-year, not-for-profit institutions of higher education that are authorized to participate in state financial aid programs under chapter 28B.92 RCW and are not subject to section 1(1) of this act; and

(c) "Statewide student identifier" has the same meaning as in section 1 of this act."

Correct the title.

Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking

Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representative Pollet.

Referred to Committee on Rules for second reading

April 4, 2023

SB 5683

Prime Sponsor, Senator Kauffman: Concerning child-specific foster care licenses for placement of Indian children. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg; Chandler; Chopp; Connors; Couture; Davis; Dye; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Rude; Ryu; Sandlin; Schmick; Senn; Simmons; Slatter; Springer; Steele; Stonier and Tharinger.

Referred to Committee on Rules for second reading

April 1, 2023

SSB 5687

Prime Sponsor, Ways & Means: Creating and supporting postsecondary wrestling grant programs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg; Chopp; Couture; Davis; Fitzgibbon; Hansen; Harris; Lekanoff; Pollet; Riccelli; Ryu; Senn; Simmons; Slatter and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chandler; Connors; Dye; Rude; Sandlin; and Schmick.

MINORITY recommendation: Without recommendation. Signed by Representative Steele.

Referred to Committee on Rules for second reading

April 4, 2023

SSB 5753

Prime Sponsor, Transportation: Concerning a roadway construction cooperative agreement between the department of transportation and the Lummi Nation. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 47.20 RCW to read as follows:

(1) The department is authorized to enter into a cooperative agreement with the governing authority of the Lummi Nation and appropriate agencies of the United States for the location, design, right-of-way acquisition, construction, and maintenance of a public road beginning on Rural Avenue

at the southern boundary of the Ferndale city limits, traveling across the property held in tribal trust status by the United States for the Lummi Nation, and connect to the approximate location of where the Ferndale city limits intersect Kope Road. The new road segment shall be named after construction is concluded.

(2) The definitions in this subsection apply throughout this section and sections 2 and 3 of this act unless context clearly requires otherwise.

(a) "Agreement" means the cooperative agreement between the department, the governing authority of the Lummi Nation, and agencies of the United States, as authorized by subsection (1) of this section.

(b) "Roadway" means the public road segment constructed pursuant to the agreement authorized by subsection (1) of this section.

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.20 RCW to read as follows:

The department is authorized to determine the location of the roadway in consultation with and approval by the governing authority of the Lummi Nation. The department may then proceed with the design, acquisition of right-of-way, and construction of the roadway. After construction of the roadway is complete, the Lummi Nation shall be responsible for the operation and maintenance and future improvement of the roadway as a public road.

NEW SECTION. **Sec. 3.** A new section is added to chapter 47.20 RCW to read as follows:

The cooperative agreement shall allow the department to request a temporary construction easement from the Lummi Nation for the purpose of constructing the new road. The cooperative agreement shall also reserve to the governing authority of the Lummi Nation authority to construct road intersections or grade separation crossings of the roadway, in accordance with applicable laws. The agreement may also authorize the governing authority of the Lummi Nation to convey to the United States an easement to construct, maintain, and repair roadway improvements if such an easement is required by regulations of the bureau of Indian affairs."

Correct the title.

Signed by Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry; Bronoske; Chapman; Cortes; Dent; Doglio; Duerr; Entenman; Griffey; Hackney; Klicker; Mena; Ramel; Ramos; Taylor and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt; and Volz.

MINORITY recommendation: Without recommendation. Signed by Representatives Goehner; and Walsh.

Referred to Committee on Rules for second reading

There being no objection, the bills listed on the day's supplemental committee report under the fifth order of business were referred to the committees so designated.

There being no objection, the House adjourned until 10:00 a.m., Wednesday, April 5, 2023, the 87th Day of the 2023 Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk

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