

## EIGHTIETH DAY

House Chamber, Olympia, Wednesday, April 3, 2013

The House was called to order at 10:00 a.m. by the Speaker (Representative Orwall presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Tiffany Carlile and Kevin Reimer. The Speaker (Representative Orwall presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Jim Ladd, Evergreen Christian Community, Olympia, Washington.

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.

### INTRODUCTIONS AND FIRST READING

HB 2024 by Representatives Pedersen, Rodne, Jinkins, Klippert, Orwall, O'Ban, Wylie, Ormsby, Kirby, Buys, Roberts, Nealey, Goodman, Hansen, Kagi, Hunter, Ryu, Appleton and Manweller

AN ACT Relating to the institution or prosecution of legal proceedings by the attorney general on behalf of state officers; amending RCW 43.10.030; adding a new section to chapter 43.10 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Appropriations Subcommittee on General Government.

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

### REPORTS OF STANDING COMMITTEES

March 29, 2013

HB 1971 Prime Sponsor, Representative Carlyle: Concerning communications services reform. Reported by Committee on Finance

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Hansen; Lytton; Pollet; Reykdal; Springer and Wilcox.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta and Vick.

Referred to Committee on Appropriations.

March 28, 2013

HB 2002 Prime Sponsor, Representative Condotta: Modifying snowmobile license fees. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Alexander, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Dahlquist; Dunshee; Fagan; Green; Haigh; Haler; Harris; Hudgins; Hunt; Jinkins; Kagi; Maxwell; Morrell; Pedersen; Pettigrew; Pike; Ross; Schmick; Seaquist; Springer and Sullivan.

MINORITY recommendation: Do not pass. Signed by Representative Taylor.

Passed to Committee on Rules for second reading.

March 29, 2013

SB 5114 Prime Sponsor, Senator Bailey: Regarding access to K-12 campuses for occupational or educational information. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Santos, Chair; Stonier, Vice Chair; Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Bergquist; Fagan; Haigh; Hargrove; Hawkins; Hayes; Hunt; Klippert; Lytton; Maxwell; McCoy; Orwall; Pollet and Seaquist.

Passed to Committee on Rules for second reading.

March 28, 2013

SB 5141 Prime Sponsor, Senator King: Allowing motorcycles to stop and proceed through traffic control signals under certain conditions. 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 46.61 RCW to read as follows:

(1) Notwithstanding any provision of law to the contrary, the operator of a street legal motorcycle approaching an intersection, including a left turn intersection, that is controlled by a triggered traffic control signal using a vehicle detection device that is inoperative due to the size of the street legal motorcycle shall come to a full and complete stop at the intersection. If the traffic control signal, including the left turn signal, as appropriate, fails to operate after the lesser of either ninety seconds or one cycle of the traffic signal, the operator may, after exercising due care, proceed directly through the intersection or proceed to turn left, as appropriate. It is

not a defense to a violation of RCW 46.61.050 that the driver of a motorcycle proceeded under the belief that a traffic control signal used a vehicle detection device or was inoperative due to the size of the motorcycle when the signal did not use a vehicle detection device or that any such device was not in fact inoperative due to the size of the motorcycle.

(2) By October 31, 2015, the Washington traffic safety commission, with input from the Washington state patrol and local law enforcement, shall submit a report to the legislature regarding the implementation of this act. This report must describe the act's effectiveness in helping motorcyclists, note any increase or decrease in the frequency of traffic accidents as a result of this act, summarize any issues related to ticketing or automated traffic safety cameras, explore whether all motor vehicles and bicycles should be given the same ability to proceed through traffic signals, and provide appropriate recommendations.

(3) This section expires August 1, 2016."

Correct the title.

Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Freeman; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; Riccelli; Rodne; Ryu; Sells; Shea; Takko; Tarleton and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representatives Liias, Vice Chair; Farrell; Habib and Hayes.

Passed to Committee on Rules for second reading.

March 29, 2013

E2SSB 5329 Prime Sponsor, Committee on Ways & Means: Assisting persistently lowest-achieving schools to become more accountable. (REVISED FOR ENGROSSED: Transforming persistently failing schools.) Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.657.005 and 2010 c 235 s 101 are each amended to read as follows:

(1) The legislature finds that an effective educational accountability system is premised on creating and maintaining partnerships between the state and local school district boards of directors. The legislature also recognizes it takes time to make significant changes that are sustainable over the long term in an educational system that serves more than one million students from diverse communities.

(2) The legislature further finds that it is the state's responsibility to create a coherent and effective accountability framework for the continuous improvement (~~for~~) of all schools and school districts. This system must provide an excellent and equitable education for all students(~~s~~), an aligned (~~federal/state~~) federal and state accountability system(~~s~~), and the tools necessary for schools and school districts to be accountable. These tools include (~~the necessary~~) accounting and data reporting systems, assessment systems to monitor student achievement, and a comprehensive system of (~~general~~) differentiated support, targeted assistance, and, if necessary, intervention.

(3) The office of the superintendent of public instruction is responsible for developing and implementing the accountability tools to build district capacity and working within federal and state guidelines. The legislature assigned the state board of education

responsibility and oversight for creating an accountability framework. This framework provides a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. Such a system will identify schools and their districts for recognition as well as for additional state support.

(4) For a specific group of (~~challenged schools, defined as~~) persistently lowest-achieving schools(~~s~~) and their districts, it is necessary to provide a required action process that creates a partnership between the state and local district to target funds and assistance to turn around the identified (~~lowest-achieving~~) schools. The legislature finds that state takeover of persistently lowest-achieving schools is unlikely to produce long-term improvement in student achievement because takeover is an unsustainable approach to school governance and an inadequate response to addressing the underlying barriers to improved outcomes for all students. However, in the rare case of a persistently lowest-achieving school that continues to fail to improve even after required action and supplemental assistance, it is appropriate and necessary to assign the superintendent of public instruction the responsibility to intercede, provide robust technical assistance, and direct the necessary interventions. Even though the superintendent of public instruction continues to work in partnership with the local school board, the superintendent of public instruction is accountable for assuring that adequate steps are taken to improve student achievement in these schools.

(5) Phase I of this accountability system will recognize schools that have done an exemplary job of raising student achievement and closing the achievement gaps using the (~~state board of education's accountability~~) Washington achievement index adopted by the state board of education. The state board of education shall have ongoing collaboration with the (~~achievement~~) educational opportunity gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and (~~the~~) recognition provided to the school districts for closing the achievement gaps. Phase I will also target the lowest five percent of persistently lowest-achieving schools defined under federal guidelines to provide federal funds and federal intervention models through a voluntary option in 2010, and for those who do not volunteer and have not improved student achievement, a required action process beginning in 2011.

(6) Phase II of this accountability system will work toward implementing the (~~state board of education's accountability~~) Washington achievement index for identification of challenged schools in need of improvement, including those that are not Title I schools, and the use of state and local intervention models and federal and state funds through a (~~required action process~~) comprehensive system of differentiated support, targeted assistance, and intervention beginning in (~~2013, in addition to the federal program~~) the 2014-15 school year. If federal approval of the (~~state board of education's accountability~~) Washington achievement index (~~must be~~) is not obtained (~~or else~~), the federal guidelines for (~~persistently lowest-achieving~~) identifying schools will continue to be used. If it ever becomes necessary, a process is established to assign responsibility to the superintendent of public instruction to intervene in persistently lowest-achieving schools that have failed to improve despite required action.

(7) The expectation from implementation of this accountability system is the improvement of student achievement for all students to prepare them for postsecondary education, work, and global citizenship in the twenty-first century.

Sec. 2. RCW 28A.657.010 and 2010 c 235 s 112 are each amended to read as follows:

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

(1) "All students group" means those students in grades three through eight and high school who take the state's assessment in reading or English language arts and mathematics required under 20 U.S.C. Sec. 6311(b)(3).

(2) "Title I" means Title I, part A of the federal elementary and secondary education act of 1965 (ESEA) (20 U.S.C. Secs. 6311-6322).

(3) "Turnaround principles" include but are not limited to the following:

- (a) Providing strong leadership;
- (b) Ensuring teachers are effective and able to improve instruction;
- (c) Increasing learning time;
- (d) Strengthening the school's instructional program;
- (e) Using data to inform instruction;
- (f) Establishing a safe and supportive school environment; and
- (g) Engaging families and communities.

**Sec. 3.** RCW 28A.657.020 and 2010 c 235 s 102 are each amended to read as follows:

(1) Beginning in 2010, and each year thereafter ~~(-by)~~ through December ~~((+st))~~ 1, 2012, the superintendent of public instruction shall annually identify schools as one of the state's persistently lowest-achieving schools if the school is a Title I school, or a school that is eligible for but does not receive Title I funds, that is among the lowest-achieving five percent of Title I or Title I eligible schools in the state.

(2) The criteria for determining whether a school is among the persistently lowest-achieving five percent of Title I schools, or Title I eligible schools, under subsection (1) of this section shall be established by the superintendent of public instruction. The criteria must meet all applicable requirements for the receipt of a federal school improvement grant under the American recovery and reinvestment act of 2009 and Title I of the elementary and secondary education act of 1965, and take into account both:

(a) The academic achievement of the "all students" group in a school in terms of proficiency on the state's assessment, and any alternative assessments, in reading and mathematics combined; and

(b) The school's lack of progress on the mathematics and reading assessments over a number of years in the "all students" group.

(3)(a) Beginning December 1, 2013, and each December thereafter, the superintendent of public instruction shall annually identify challenged schools in need of improvement and a subset of such schools that are the persistently lowest-achieving schools in the state.

(b) The criteria for determining whether a school is a challenged school in need of improvement shall be established by the superintendent of public instruction. The criteria must meet all applicable federal requirements under Title I of the elementary and secondary education act of 1965 and other federal rules or guidance, including applicable requirements for the receipt of federal school improvement funds if available, but shall apply equally to Title I, Title I-eligible, and non-Title I schools in the state. The criteria must take into account the academic achievement of the "all students" group and subgroups of students in a school in terms of proficiency on the state assessments in reading or English language arts and mathematics and a high school's graduation rate for all students and subgroups of students. The superintendent may establish tiered categories of challenged schools based on the relative performance of all students, subgroups of students, and other factors.

(c) The superintendent of public instruction shall also establish criteria for determining whether a challenged school in need of improvement is also a persistently lowest-achieving school for purposes of the required action district process under this chapter, which shall include the school's lack of progress for all students and subgroups of students over a number of years. The criteria for identifying persistently lowest-achieving schools shall also take into account the level of state or federal resources available to implement a

required action plan.

(d) If the Washington achievement index is approved by the United States department of education for use in identifying schools for federal purposes, the superintendent of public instruction shall use the approved index to identify schools under (b) and (c) of this subsection.

**Sec. 4.** RCW 28A.657.030 and 2010 c 235 s 103 are each amended to read as follows:

(1) Beginning in January 2011, the superintendent of public instruction shall annually recommend to the state board of education school districts for designation as required action districts. A district with at least one school identified as a persistently lowest-achieving school according to the criteria established by the superintendent of public instruction under RCW 28A.657.020 shall be designated as a required action district ~~((if it meets the criteria developed by the superintendent of public instruction))~~. However, a school district shall not be recommended for designation as a required action district if the district was awarded a federal school improvement grant by the superintendent in 2010 and for three consecutive years following receipt of the grant implemented a federal school intervention model at each school identified for improvement. The state board of education may designate a district that received a school improvement grant in 2010 as a required action district if after three years of voluntarily implementing a plan the district continues to have a school identified as persistently lowest-achieving and meets the criteria for designation established by the superintendent of public instruction.

(2) The superintendent of public instruction shall provide a school district superintendent with written notice of the recommendation for designation as a required action district by certified mail or personal service. A school district superintendent may request reconsideration of the superintendent of public instruction's recommendation. The reconsideration shall be limited to a determination of whether the school district met the criteria for being recommended as a required action district. A request for reconsideration must be in writing and served on the superintendent of public instruction within ten days of service of the notice of the superintendent's recommendation.

(3) The state board of education shall annually designate those districts recommended by the superintendent in subsection (1) of this section as required action districts. A district designated as a required action district shall be required to notify all parents of students attending a school identified as a persistently lowest-achieving school in the district of the state board of education's designation of the district as a required action district and the process for complying with the requirements set forth in RCW 28A.657.040 through 28A.657.100.

**Sec. 5.** RCW 28A.657.050 and 2012 c 53 s 10 are each amended to read as follows:

(1)(a) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community.

(b) The superintendent of public instruction shall provide a district with assistance in developing its plan if requested, and shall develop and publish guidelines for the development of required action plans. The superintendent of public instruction, in consultation with the state board of education, shall also publish a list of research and evidence-based school improvement models, consistent with turnaround principles, that are approved for use in required action plans.

(c) The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of

public instruction to review and approve that the plan is consistent with federal and state guidelines, as applicable. After the office of the superintendent of public instruction has approved that the plan is consistent with federal and state guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of ~~((one of the four federal intervention))~~ an approved school improvement model(s) required for the receipt of ~~((a))~~ federal or state funds for school improvement ~~((grant))~~ for those persistently lowest-achieving schools that the district will be focusing on for required action. ~~((However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models.))~~ The ~~((intervention))~~ approved school improvement model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan. The required action plan for districts with multiple persistently lowest-achieving schools must include separate plans for each school as well as a plan for how the school district will support the schools collectively;

(b) Submission of an application for ~~((a federal school improvement grant or a grant from other))~~ federal or state funds for school improvement to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the ~~((federal))~~ model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit; and

(e) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include closing the educational opportunity gap, improving mathematics and reading or English language arts student achievement, and improving graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after June 10, 2010, must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan. For any district applying to participate in a collaborative schools for innovation and success pilot project under RCW 28A.630.104, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after June 7, 2012, must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement an innovation and success plan.

(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district in the case of a required action district, or the comprehensive needs assessment in the case of a collaborative schools for innovation and success pilot project.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan or innovation and success plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of ~~((a federal school improvement grant or a grant from other))~~ federal or state funds for school improvement to the district from the office of the superintendent of public instruction to implement ~~((one of the four federal intervention))~~ an approved school improvement model(s). In the case of an innovation and success plan, the court must enter an order selecting the proposal for inclusion in the plan that best responds to the issues raised in the school's comprehensive needs assessment. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of ~~((a federal school improvement grant or other))~~ federal or state funds for school improvement by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school

districts designated as required action districts to implement (~~one of the four federal~~) an approved school improvement model((s)) in a required action plan.

**Sec. 6.** RCW 28A.657.050 and 2010 c 235 s 105 are each amended to read as follows:

(1)(a) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community.

(b) The superintendent of public instruction shall provide a district with assistance in developing its plan if requested, and shall develop and publish guidelines for the development of required action plans. The superintendent of public instruction, in consultation with the state board of education, shall also publish a list of research and evidence-based school improvement models, consistent with turnaround principles, that are approved for use in required action plans.

(c) The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal and state guidelines, as applicable. After the office of the superintendent of public instruction has approved that the plan is consistent with federal and state guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of (~~one of the four federal intervention~~) an approved school improvement model((s)) required for the receipt of ((a)) federal or state funds for school improvement (~~(grant)~~) for those persistently lowest-achieving schools that the district will be focusing on for required action. (~~However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models.~~) The ((intervention)) approved school improvement model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan. The required action plan for districts with multiple persistently lowest-achieving schools must include separate plans for each school as well as a plan for how the school district will support the schools collectively;

(b) Submission of an application for (~~a federal school improvement grant or a grant from other~~) federal or state funds for school improvement to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the (~~federal~~) model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit; and

(e) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include closing the educational opportunity gap, improving mathematics and reading or English language arts student achievement, and improving graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after June 10, 2010, must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan.

(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of (~~a federal school improvement grant or a grant from other~~) federal or state funds for school improvement to the district from the office of the superintendent of public instruction to implement (~~one of the four federal intervention~~) an approved school improvement model((s)). The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for

the award of ~~((a federal school improvement grant or other))~~ federal or state funds for school improvement by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school districts designated as required action districts to implement ~~((one of the four federal))~~ an approved school improvement model(s) in a required action plan.

**Sec. 7.** RCW 28A.657.060 and 2010 c 235 s 106 are each amended to read as follows:

A required action plan developed by a district's school board and superintendent must be submitted to the state board of education for approval. The state board must accept for inclusion in any required action plan the final decision by the superior court on any issue certified by the executive director of the public employment relations commission under the process in RCW 28A.657.050. The state board of education shall approve a plan proposed by a school district only if the plan meets the requirements in RCW 28A.657.050 and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement. Any addendum or modification to an existing collective bargaining agreement, negotiated under RCW 28A.657.050 or by agreement of the district and the exclusive bargaining unit, related to student achievement or school improvement shall not go into effect until approval of a required action plan by the state board of education. If the state board does not approve a proposed plan, it must notify the local school board and local district's superintendent in writing with an explicit rationale for why the plan was not approved. Nonapproval by the state board of education of the local school district's initial required action plan submitted is not intended to trigger any actions under RCW 28A.657.080. With the assistance of the office of the superintendent of public instruction, the superintendent and school board of the required action district shall either: ~~((a)-(1))~~ (1) Submit a new plan to the state board of education for approval within forty days of notification that its plan was rejected, or ~~((b)-(2))~~ (2) submit a request to the required action plan review panel established under RCW 28A.657.070 for reconsideration of the state board's rejection within ten days of the notification that the plan was rejected. If federal or state funds for school improvement are not available, the plan is not required to be implemented until such funding becomes available. If federal or state funds for this purpose are available, a required action plan must be implemented in the immediate school year following the district's designation as a required action district.

**Sec. 8.** RCW 28A.657.070 and 2010 c 235 s 107 are each amended to read as follows:

(1) A required action plan review panel shall be established to offer an objective, external review of a request from a school district for reconsideration of the state board of education's rejection of the district's required action plan or reconsideration of a level two required action plan developed only by the superintendent of public instruction as provided under section 11 of this act. The review and reconsideration by the panel shall be based on whether the state board of education or the superintendent of public instruction gave appropriate consideration to the unique circumstances and characteristics identified in the academic performance audit or level two needs assessment and review of the local school district ~~((whose required action plan was rejected))~~.

(2)(a) The panel shall be composed of five individuals with expertise in school improvement, school and school district restructuring, or parent and community involvement in schools. Two

of the panel members shall be appointed by the speaker of the house of representatives; two shall be appointed by the president of the senate; and one shall be appointed by the governor.

(b) The speaker of the house of representatives, president of the senate, and governor shall solicit recommendations for possible panel members from the Washington association of school administrators, the Washington state school directors' association, the association of Washington school principals, the ~~((achievement))~~ educational opportunity gap oversight and accountability committee, and associations representing certificated teachers, classified school employees, and parents.

(c) Members of the panel shall be appointed no later than December 1, 2010, but the superintendent of public instruction shall convene the panel only as needed to consider a school district's request for reconsideration. Appointments shall be for a four-year term, with opportunity for reappointment. Reappointments in the case of a vacancy shall be made expeditiously so that all requests are considered in a timely manner.

(3)(a) In the case of a rejection of a required action plan, the required action plan review panel may reaffirm the decision of the state board of education, recommend that the state board reconsider the rejection, or recommend changes to the required action plan that should be considered by the district and the state board of education to secure approval of the plan. The state board of education shall consider the recommendations of the panel and issue a decision in writing to the local school district and the panel. If the school district must submit a new required action plan to the state board of education, the district must submit the plan within forty days of the board's decision.

(b) In the case of a level two required action plan where the local school district and the superintendent of public instruction have not come to agreement, the required action plan review panel may reaffirm the level two required action plan submitted by the superintendent of public instruction or recommend changes to the plan that should be considered by the state board of education, the superintendent of public instruction, and the local school district. The state board of education shall consider the recommendations of the panel and issue a decision in writing to the local school district, the superintendent of public instruction, and the panel.

(4) The state board of education and superintendent of public instruction must develop timelines and procedures for the deliberations under this section so that school districts can implement a required action plan within the time frame required under RCW 28A.657.060.

**Sec. 9.** RCW 28A.657.090 and 2010 c 235 s 109 are each amended to read as follows:

A school district must implement a required action plan upon approval by the state board of education. The office of ~~((the))~~ the superintendent of public instruction must provide the required action district with technical assistance and ~~((federal school improvement grant funds or other))~~ federal or state funds for school improvement, if available, to implement an approved plan. The district must submit a report to the superintendent of public instruction that provides the progress the district is making in meeting the student achievement goals based on the state's assessments, identifying strategies and assets used to solve audit findings, and establishing evidence of meeting plan implementation benchmarks as set forth in the required action plan.

**Sec. 10.** RCW 28A.657.100 and 2010 c 235 s 110 are each amended to read as follows:

(1) The superintendent of public instruction must provide a report twice per year to the state board of education regarding the progress made by all school districts designated as required action districts.

(2) The superintendent of public instruction must recommend to the state board of education that a school district be released from the designation as a required action district after the district implements a

required action plan for a period of three years; has made progress, as defined by the superintendent of public instruction (~~(in reading and mathematics on the state's assessment over the past three consecutive years)~~) using the criteria established under RCW 28A.657.020 including progress in closing the educational opportunity gap; and no longer has a school within the district identified as persistently lowest-achieving. The state board shall release a school district from the designation as a required action district upon confirmation that the district has met the requirements for a release.

(3) If the state board of education determines that the required action district has not met the requirements for release ~~(and)~~ after at least three years of implementing a required action plan, the board may recommend that the district remain ~~(s)~~ in required action and ~~(must)~~ submit a new or revised plan under the process in RCW 28A.657.050, or the board may direct that the school district be assigned to level two of the required action process as provided in section 11 of this act. Before making a determination of whether to recommend that a school district that is not making progress remain in required action or be assigned to level two of the required action process, the state board of education must submit its findings to the education accountability system oversight committee under section 13 of this act and provide an opportunity for the oversight committee to review and comment.

**NEW SECTION. Sec. 11.** A new section is added to chapter 28A.657 RCW to read as follows:

(1) School districts assigned by the state board of education to level two of the required action process under this chapter are those with one or more schools that have remained as persistently lowest-achieving for more than three years and have not demonstrated recent and significant improvement or progress toward exiting persistently lowest-achieving status, despite implementation of a required action plan.

(2) Within ninety days following assignment of a school district to level two of the required action process, the superintendent of public instruction shall direct that a needs assessment and review be conducted to determine the reasons why the previous required action plan did not succeed in improving student achievement.

(3)(a) Based on the results of the needs assessment and review, the superintendent of public instruction shall work collaboratively with the school district board of directors to develop a revised required action plan for level two.

(b) The level two required action plan must explicitly address the reasons why the previous plan did not succeed and must specify the interventions that the school district must implement, which may include assignment or reassignment of personnel, reallocation of resources, use of specified curriculum or instructional strategies, use of a specified school improvement model, or any other conditions determined by the superintendent of public instruction to be necessary for the level two required action plan to succeed, which conditions shall be binding on the school district. The level two required action plan shall also include the specific technical assistance and support to be provided by the office of the superintendent of public instruction, which may include assignment of school improvement specialists to have a regular on-site presence in the school and technical assistance provided through the educational service district. Individuals assigned as on-site school improvement specialists must have demonstrated experience in school turnaround and cultural competence.

(c) The level two required action plan must be submitted to the state board of education for approval.

(4) If the superintendent of public instruction and the school district board of directors are unable to come to an agreement on a level two required action plan within ninety days of the completion of the needs assessment and review conducted under subsection (2) of this section, the superintendent of public instruction shall complete and submit a level two required action plan directly to the state board

of education for approval. The school district board of directors may submit a request to the required action plan review panel established under RCW 28A.657.070 for reconsideration of the superintendent's level two required action plan within ten days of the submission of the plan to the state board of education. After the state board of education considers the recommendations of the required action plan review panel, the decision of the board regarding the level two required action plan is final and not subject to further reconsideration.

(5) If changes to a collective bargaining agreement are necessary to implement a level two required action plan, the parties must reopen the agreement, or negotiate an addendum, using the process outlined under RCW 28A.657.050. If the level two required action plan is developed by the superintendent of public instruction under subsection (4) of this section, a designee of the superintendent shall participate in the discussions among the parties to the collective bargaining agreement.

(6) While a school district is assigned to level two of the required action process under this chapter, the superintendent of public instruction is responsible and accountable for assuring that the level two required action plan is implemented with fidelity. The superintendent of public instruction shall defer to the school district board of directors as the governing authority of the school district and continue to work in partnership with the school district to implement the level two required action plan. However, if the superintendent of public instruction finds that the level two required action plan is not being implemented as specified, including the implementation of any binding conditions within the plan, the superintendent may direct actions that must be taken by school district personnel to implement the level two required action plan or the binding conditions. If necessary, the superintendent of public instruction may exercise authority under RCW 28A.505.120 regarding allocation of funds.

(7) The superintendent of public instruction shall include in the budget estimates and information submitted to the governor under RCW 28A.300.170 a request for sufficient funds to support implementation of the level two required action plans established under this section.

(8) The superintendent of public instruction must recommend to the state board of education that a school district be released from assignment to level two of the required action process after the district implements the level two required action plan for a period of three years; has made progress, as defined by the superintendent of public instruction using the criteria established under RCW 28A.657.020; and no longer has a school within the district identified as persistently lowest-achieving. The state board of education shall release a school district from the level two assignment upon confirmation that the school district has met the requirements for a release.

**Sec. 12.** RCW 28A.657.110 and 2010 c 235 s 111 are each amended to read as follows:

(1) By November 1, 2013, the state board of education shall ~~((continue to refine the development of))~~ propose rules for adoption establishing an accountability framework that creates a unified system of support for challenged schools(,) that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. The board must seek input from the public and interested groups in developing the framework. Based on the framework, the superintendent of public instruction shall design a comprehensive system of specific strategies for recognition, provision of differentiated support and targeted assistance, and, if necessary, requiring intervention in schools and school districts. The superintendent shall submit the system design to the state board of education for review. The state board of education shall recommend approval or modification of the system design to the superintendent no later than January 1, 2014, and the system must be implemented statewide no later than the 2014-15 school year. To the extent state funds are appropriated for this purpose, the system must apply equally to Title I, Title I-eligible, and non-Title I schools in the state.

(2) The state board of education shall develop (~~an accountability~~) a Washington achievement index to identify schools and school districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and school districts, as well as parents and community members. The index must identify five categories of schools and school districts, which must be labeled as follows based on relative performance on the criteria used in the index: Exemplary, very good, good, fair, and struggling. It is the legislature's intent that the index provide feedback to schools and school districts to self-assess their progress, and enable the identification of schools with exemplary (~~student~~) performance and those that need assistance to overcome challenges in order to achieve exemplary (~~student~~) performance.

(3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the (~~state board of education accountability~~) Washington achievement index. The state board of education shall have ongoing collaboration with the (~~achievement~~) educational opportunity gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps.

(4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the (~~accountability~~) Washington achievement index and the state system of differentiated support, assistance, and intervention(;) to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

(5) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in (~~section 112, chapter 548, Laws of 2009~~) RCW 28A.290.020 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and school districts but also as a tool for schools and school districts to report to the state legislature and the state board of education on how the state resources received are being used.

NEW SECTION. Sec. 13. A new section is added to chapter 28A.657 RCW to read as follows:

(1) The education accountability system oversight committee is established to provide ongoing monitoring of the outcomes of the comprehensive system of recognition, support, and intervention for schools and school districts established under this chapter.

(2) The oversight committee shall be composed of the following members:

(a) Two members from each of the largest caucuses of the house of representatives, to be appointed by the speaker of the house of representatives;

(b) Two members from each of the largest caucuses of the senate, to be appointed by the president of the senate;

(c) Two members appointed by the governor; and

(d) One nonlegislative member of the educational opportunity gap oversight and accountability committee.

(3) The oversight committee shall choose a chair from among its membership who shall serve as chair for no more than one consecutive year.

(4) The committee shall:

(a) Monitor the progress and outcomes of the education accountability system established under this chapter, including but not limited to the effectiveness in improving student achievement of the

tiered system of assistance and intervention provided to challenged schools in need of improvement, persistently lowest-achieving schools in required action districts, and level two required action districts;

(b) Review and make recommendations to the state board of education regarding the proposed assignment of a required action district to level two of the required action process under section 11 of this act;

(c) Make recommendations to the state board of education, the superintendent of public instruction, the governor, and the legislature as necessary if the oversight committee finds that changes to the accountability system should be made; and

(d) Report biennially to the education committees of the legislature.

(5) Staff support for the oversight committee must be provided by the senate committee services and the house of representatives office of program research.

(6) Legislative members of the oversight committee may be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 14. RCW 28A.657.125 (Joint select committee on education accountability--Reports) and 2010 c 235 s 114 are each repealed.

NEW SECTION. Sec. 15. Section 5 of this act expires June 30, 2019.

NEW SECTION. Sec. 16. Section 6 of this act takes effect June 30, 2019."

Correct the title.

Signed by Representatives Santos, Chair; Stonier, Vice Chair; Bergquist; Haigh; Hunt; Lytton; Maxwell; McCoy; Orwall; Pollet and Seaquist.

MINORITY recommendation: Do not pass. Signed by Representatives Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Fagan; Hargrove; Hawkins; Hayes and Klippert.

Referred to Committee on Appropriations.

March 28, 2013

ESSB 5849 Prime Sponsor, Committee on Transportation: Concerning electric vehicle charging stations. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Lias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Freeman; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; Riccelli; Rodne; Ryu; Sells; Takko; Tarleton and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representatives Overstreet, Assistant Ranking Minority Member and Shea.

Passed to Committee on Rules for second reading.

March 28, 2013

SJM 8001 Prime Sponsor, Senator Sheldon: Requesting that Interstate 5 be named the "Purple Heart Trail." Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.



On page 1, line 1, after "HONORABLE" strike "PAULA HAMMOND" and insert "LYNN PETERSON"

On page 2, line 13, after "Honorable" strike "Paula Hammond" and insert "Lynn Peterson"

Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Freeman; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; Riccelli; Rodne; Ryu; Sells; Shea; Takko; Tarleton and Zeiger.

Passed to Committee on Rules for second reading.

March 28, 2013

SJM 8005 Prime Sponsor, Senator Hargrove: Requesting that state route number 117 be designated as the POW/MIA Memorial Highway. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Beginning on page 1, line 1, strike all material through page 2, line 36, and insert the following:

"TO THE HONORABLE LYNN PETERSON, SECRETARY OF TRANSPORTATION, AND TO THE WASHINGTON STATE TRANSPORTATION COMMISSION, AND TO THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION:

We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

WHEREAS, American soldiers and sailors were taken as prisoners of war during the American Revolutionary War with the majority of prisoners kept aboard British prison hulks near New York City. In 1873, a general exchange of prisoners occurred after the cessation of hostilities and recognition of American independence; and

WHEREAS, During the War of 1812, battlefield exchanges occurred under a general British/American cartel for exchanging prisoners. The British continued to use prison hulks and the American POW's were treated humanely until their repatriation following the Treaty of Ghent in 1814; and

WHEREAS, During the Mexican-American War, the Mexican forces released some American prisoners in "head for head" exchanges that occasionally took place during the war, but most American prisoners of war remained incarcerated until the ratification of the Treaty of Guadalupe Hidalgo; and

WHEREAS, During the Civil War, both Union and Confederate forces were unprepared to detain the enormous number of POW's. 211,400 Union prisoners were held in the South and 220,000 Confederate prisoners were held in the North. Starting in 1865, the federal government began returning large numbers of prisoners to the Confederacy. After the surrender at Appomattox, the Union prisons were closed quickly; and

WHEREAS, The United States entered World War I in April 1917. Of the 4,120 American POW's during World War I, 147 died in captivity with most deaths resulting from wounds received in combat. Prisoner exchanges followed the signing of the armistice; and

WHEREAS, During World War II, 260,000 American POW's were held by Germans in Europe. Over 1,121 American POW's died in European prison camps. In the Far East, the Japanese held 124,079 American POW's. 10,650 American POW's died in Japanese prison

camps. In addition, there were 30,314 MIA's and 78,776 unaccounted for in the Far East; and

WHEREAS, During the Korean War, more than 12,000 American POW's were held by North Korea and China. Additionally, over 8,000 were classified as MIA and unaccounted for. After a truce was signed at Panmonjum, over 4,000 American POW's were returned in August 1953; and

WHEREAS, During the Vietnam War, 1,750 Americans were listed as MIA or unaccounted for in Vietnam and an additional 600 were MIA in neighboring Laos and Cambodia. To date, Vietnam has not accounted for all American POW's; and

WHEREAS, During the Gulf War, 47 Americans were listed as POW's or MIA at some point during Operation Desert Storm. At the conclusion of the war, 21 POW's were repatriated, 23 bodies were recovered, 2 bodies were never recovered, and one MIA case was left unresolved until 2009 when his remains were found in the Iraq desert; and

WHEREAS, During the Cold War, there was a sustained state of political and military tension between Western and Eastern powers and, as of 2000, there were 126 United States servicemen still unaccounted for. The United States Senate Select Committee on POW/MIA Affairs found evidence that some United States POW's were held in the former Soviet Union after the Cold War incident and that it "cannot, based on its investigation to date, rule out the possibility that one or more U.S. POWs from past wars or incidents are still being held somewhere within the borders of the former Soviet Union";

NOW, THEREFORE, Your Memorialists respectfully pray that the Washington State Transportation Commission commence proceedings to designate state route number 117 in Clallam county between the junction of state route number 101 and Marine Drive in the city of Port Angeles as the POW/MIA Memorial Highway to honor the service and sacrifice of all prisoners of war, missing in action, and those unaccounted for who served in the United States of America.

BE IT RESOLVED, That copies of this Memorial be immediately transmitted to the Honorable Lynn Peterson, Secretary of Transportation, the Washington State Transportation Commission, and the Washington State Department of Transportation."

Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Freeman; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; Riccelli; Rodne; Ryu; Sells; Shea; Takko; Tarleton and Zeiger.

Passed 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.

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

## SECOND READING SUSPENSION

**SENATE BILL NO. 5139, by Senators Hatfield, Schoesler, Hobbs, Honeyford and Shin**

**Concerning milk and milk products.**

The bill was read the second time.

There being no objection, the committee recommendation was adopted.

The bill was placed on final passage.

Representatives Lytton and Chandler spoke in favor of the passage of the bill.

#### MOTION

On motion of Representative Fitzgibbon, Representative Blake was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5139.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5139, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Taylor, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Blake.

SENATE BILL NO. 5139, having received the necessary constitutional majority, was declared passed.

#### **SENATE BILL NO. 5145, by Senators Keiser, Conway, Eide, Kohl-Welles, Shin and Schlicher**

##### **Allowing fire departments to develop a community assistance referral and education services program.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Public Safety was adopted. (For Committee amendment, see Journal, Day 58, March 12, 2013.)

The bill was placed on final passage.

Representatives Goodman and Klippert spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5145, as amended by the House..

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5145, and the bill, as amended by the House, passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Taylor, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Blake.

SENATE BILL NO. 5145, as amended by the House, having received the necessary constitutional majority, was declared passed.

#### **SENATE BILL NO. 5216, by Senators Rolfes, Bailey, Mullet, Parlette, Keiser, Shin and Conway**

##### **Addressing long-term care insurance.**

The bill was read the second time.

There being no objection, the committee recommendation was adopted.

The bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5216.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5216, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Taylor, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Blake.

SENATE BILL NO. 5216, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5220, by Senators Conway and Shin**

**Addressing membership on city disability boards.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 71, March 25, 2013.)

The bill was placed on final passage.

Representatives Hunter and Alexander spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5220, as amended by the House..

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5220, and the bill, as amended by the House, passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Taylor, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Blake.

SENATE BILL NO. 5220, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5488, by Senators Kohl-Welles, Padden, Kline, Darneille, Fraser, Ranker, Keiser, Delvin, Carrell, McAuliffe, Chase and Conway**

**Establishing an enhanced penalty for the use of an internet advertisement to facilitate the commission of a sex-trafficking crime.**

The bill was read the second time.

There being no objection, the committee recommendation was adopted.

The bill was placed on final passage.

Representatives Goodman and MacEwen spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5488.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5488, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Taylor, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Blake.

SENATE BILL NO. 5488, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5518, by Senate Committee on Governmental Operations (originally sponsored by Senators Roach, Darneille, Sheldon and Hatfield)**

**Making nonsubstantive changes to election laws.**

The bill was read the second time.

There being no objection, the committee recommendation was adopted.

The bill was placed on final passage.

Representatives Bergquist and Buys spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5518.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5518, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford,

Stonier, Sullivan, Takko, Tarleton, Taylor, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Blake.

SUBSTITUTE SENATE BILL NO. 5518, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5524, by Senate Committee on Health Care (originally sponsored by Senators Cleveland, Schlicher, Benton, Baumgartner, Keiser, Shin and Kline)**

**Authorizing Washington pharmacies to fill prescriptions written by physician assistants in other states.**

The bill was read the second time.

There being no objection, the committee recommendation was adopted.

The bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5524.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5524, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Taylor, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Blake.

SUBSTITUTE SENATE BILL NO. 5524, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5558, by Senators Fain, Hobbs, Keiser, Shin and Kline**

**Creating loan-making authority for down payment assistance for single-family homeownership.**

The bill was read the second time.

There being no objection, the committee recommendation was adopted.

The bill was placed on final passage.

Representatives McCoy and Angel spoke in favor of the passage of the bill.

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5558.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5558, and the bill passed the House by the following vote: Yeas, 59; Nays, 38; Absent, 0; Excused, 1.

Voting yea: Representatives Angel, Appleton, Bergquist, Carlyle, Clibborn, Cody, Dunshee, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Hansen, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kirby, Kochmar, Liias, Lytton, MacEwen, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, O'Ban, Ormsby, Orwall, Pedersen, Pettigrew, Pollet, Reykdal, Riccelli, Roberts, Ryu, Santos, Sawyer, Seaquist, Sells, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Tharinger, Upthegrove, Van De Wege, Walsh, Wylie and Mr. Speaker.

Voting nay: Representatives Alexander, Buys, Chandler, Condotta, Crouse, Dahlquist, DeBolt, Fagan, Haler, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Johnson, Klippert, Kretz, Kristiansen, Magendanz, Manweller, Nealey, Orcutt, Overstreet, Parker, Pike, Rodne, Ross, Schmick, Scott, Shea, Short, Smith, Taylor, Vick, Warnick, Wilcox and Zeiger.

Excused: Representative Blake.

SENATE BILL NO. 5558, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5563, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Kohl-Welles, Litzow, Rolfes, Keiser, McAuliffe and Kline)**

**Regarding training for school employees in the prevention of sexual abuse.**

The bill was read the second time.

There being no objection, the committee recommendation was adopted.

The bill was placed on final passage.

Representatives Stonier and Dahlquist spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5563.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5563, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey,

Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Lias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Taylor, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Blake.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5563, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5620, by Senators King and McAuliffe**

**Changing school safety-related drills.**

The bill was read the second time.

There being no objection, the committee recommendation was adopted.

The bill was placed on final passage.

Representatives Dahlquist and Stonier spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5620.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5620, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Lias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Taylor, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representative Nealey.

Excused: Representative Blake.

ENGROSSED SENATE BILL NO. 5620, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5634, by Senate Committee on Natural Resources & Parks (originally**

**sponsored by Senators Rolfes, Hargrove, Nelson, Kline, Fain, Hobbs, Fraser, Parlette and Pearson)**

**Clarifying the department of natural resources' authority to enter into cooperative agreements.**

The bill was read the second time.

There being no objection, the committee recommendation was adopted.

The bill was placed on final passage.

Representatives Stanford and Chandler spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5634.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5634, and the bill passed the House by the following vote: Yeas, 91; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Crouse, Dahlquist, DeBolt, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Lias, Lytton, MacEwen, Magendanz, Manweller, Maxwell, McCoy, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Seaquist, Sells, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Tharinger, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Condotta, Overstreet, Pike, Scott, Shea and Taylor.

Excused: Representative Blake.

SUBSTITUTE SENATE BILL NO. 5634, having received the necessary constitutional majority, was declared passed.

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

**FIRST SUPPLEMENTAL REPORTS OF STANDING COMMITTEES**

April 1, 2013

**HB 1988**

Prime Sponsor, Representative Rodne: Concerning the application of right-sizing to transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Lias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Fitzgibbon; Freeman; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller;

Morris; O'Ban; Riccelli; Rodne; Ryu; Sells; Shea; Takko; Tarleton; Upthegrove and Zeiger.

Passed to Committee on Rules for second reading.

April 2, 2013

SSB 5010

Prime Sponsor, Committee on Law & Justice: Establishing that courts may order an offender to refrain from the consumption of marijuana as a part of community custody conditions. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Moscoso; Pettigrew; Ross and Takko.

Passed to Committee on Rules for second reading.

April 2, 2013

SB 5025

Prime Sponsor, Senator Roach: Providing that a proclamation of a state of emergency is effective upon the governor's signature. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Moscoso; Pettigrew; Ross and Takko.

Passed to Committee on Rules for second reading.

April 2, 2013

SB 5083

Prime Sponsor, Senator Benton: Concerning the display of political yard signs in homeowners' associations. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 64.38.034 and 2005 c 179 s 1 are each amended to read as follows:

(1) The governing documents may not prohibit the outdoor display of political yard signs by an owner or resident on the owner's or resident's property before any primary ~~((or)),~~ general, or special election. The governing documents may include reasonable rules and regulations regarding the placement and manner of display of political yard signs.

(2) This section applies retroactively to any governing documents in effect on ~~((July 24, 2005))~~ the effective date of this act. Any provision in a governing document in effect on ~~((July 24, 2005))~~ the effective date of this act, that is inconsistent with this section is void and unenforceable."

Correct the title.

Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Goodman; Jinkins; Kirby; Klippert; Orwall; Roberts and Shea.

MINORITY recommendation: Do not pass. Signed by Representatives O'Ban, Assistant Ranking Minority Member and Nealey.

Passed to Committee on Rules for second reading.

SB 5098

Prime Sponsor, Senator Ericksen: Regarding wireless communications structures. Reported by Committee on Technology & Economic Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.21C.0384 and 1996 c 323 s 2 are each amended to read as follows:

(1) Decisions pertaining to applications to site ~~((personal))~~ wireless service facilities are not subject to the requirements of RCW 43.21C.030(2)(c), if those facilities meet the following requirements:

(a)~~((i))~~ The ~~((facility to be sited is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school))~~ collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures does not substantially change the physical dimensions of such structures; or ~~((ii) the facility includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or a school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agricultural zone; or (iii))~~

(b) The siting project involves constructing a ~~((personal))~~ wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone~~((; and~~

~~((b) The project is not in)).~~ This exemption does not apply to projects within a designated ~~((environmentally sensitive))~~ critical area~~((; and~~

~~((c) The project does not consist of a series of actions: (i) Some of which are not categorically exempt; or (ii) that together may have a probable significant adverse environmental impact)).~~

(2) ~~The exemption authorized under subsection (1) of this section may only be applied to a project consisting of a series of actions when all actions in the series are categorically exempt and the actions together do not have a probable significant adverse environmental impact.~~

~~((3) The department of ecology shall adopt rules to create a categorical exemption for ((microcells and other personal)) wireless service facilities that meet the conditions set forth in subsections (1) and (2) of this section.~~

~~((3) For the purposes of this section:))~~

(4) By January 1, 2020, all wireless service providers granted an exemption to RCW 43.21C.030(2)(c) must provide the legislature with the number of permits issued pertaining to wireless service facilities, the number of exemptions granted under this section, and the total dollar investment in wireless service facilities between July 1, 2013, and June 30, 2019.

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

(a) ~~((Personal))~~ Wireless services means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) ~~((Personal))~~ Wireless service facilities means facilities for the provision of ~~((personal))~~ wireless services.

(c) (~~"Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length~~) "Collocation" means the mounting or installation of equipment on an existing tower, building, or structure for the purpose of either transmitting or receiving, or both, radio frequency signals for communications purposes.

(d) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.

(e) "Substantially change the physical dimensions" means:  
(i) The mounting of equipment on a structure that would increase the height of the structure by more than ten percent, or twenty feet, whichever is greater; or

(ii) The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.

NEW SECTION. Sec. 2. The code reviser is directed to put the defined terms in RCW 43.21C.0384(5) into alphabetical order."

Correct the title.

Signed by Representatives Morris, Chair; Habib, Vice Chair; Smith, Ranking Minority Member; Crouse, Assistant Ranking Minority Member; Dahlquist; Hudgins; Kochmar; Magendanz; Maxwell; Morrell; Stonier; Tarleton; Vick; Walsh; Wylie and Zeiger.

Passed to Committee on Rules for second reading.

April 2, 2013

ESSB 5118 Prime Sponsor, Committee on Human Services & Corrections: Addressing access to original birth certificates after adoption finalization. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Referred to Committee on Appropriations Subcommittee on Health & Human Services.

April 2, 2013

SB 5149 Prime Sponsor, Senator Carrell: Concerning crimes against pharmacies. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Goodman, Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Holy; Moscoso; Pettigrew; Ross and Takko.

MINORITY recommendation: Do not pass. Signed by Representatives Roberts, Vice Chair and Appleton.

Passed to Committee on Rules for second reading.

April 2, 2013

SSB 5180 Prime Sponsor, Committee on Higher Education: Improving access to higher education for students with disabilities. Reported by Committee on Higher Education

MAJORITY recommendation: Do pass. Signed by Representatives Seaquist, Chair; Pollet, Vice Chair; Haler, Ranking Minority Member; Zeiger, Assistant Ranking Minority Member; Fagan; Hansen; Johnson; Pedersen; Reykdal; Riccelli; Sells; Smith; Walsh and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Hargrove; Magendanz and Scott.

Passed to Committee on Rules for second reading.

April 2, 2013

2SSB 5197 Prime Sponsor, Committee on Ways & Means: Taking measures to promote safe school buildings. Reported by Committee on Education

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 28A.320 RCW to read as follows:

School districts must work collaboratively with local law enforcement agencies and school security personnel to develop an emergency response system using evolving technology to expedite the response and arrival of law enforcement in the event of a threat or emergency at a school. School districts are encouraged to use the model policies developed by the school safety advisory committee of the office of the superintendent of public instruction as a resource. Each school district must submit a progress report on its implementation of an emergency response system as required under this section to the office of the superintendent of public instruction by December 1, 2014.

Sec. 2. RCW 28A.335.010 and 1969 ex.s. c 223 s 28A.58.102 are each amended to read as follows:

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Cause all school buildings to be properly heated, lighted, and ventilated and maintained in a clean and sanitary condition; ~~((and))~~

(2) Maintain and repair, furnish, and insure such school buildings;

(3) Consider installing a perimeter security control mechanism or system on all school campuses, as appropriate to the design of the campus; and

(4) For new school construction projects or remodeling projects of more than forty percent of an existing school building that are initiated after the effective date of this section, consider school building plans and designs that promote:

(a) An optimal level of security for the specific school site that incorporates evolving technology and best practices to protect students and staff in the event of a threat during school hours;

(b) Direct control and observation of the public entering school grounds; and

(c) The public entering school grounds through as few entrances as possible, such as through the main entrance of a school's administrative offices.

NEW SECTION. Sec. 3. (1) The school safety advisory committee convened by the office of the superintendent of public instruction shall develop model policies and strategies for school districts and local law enforcement agencies to design emergency response systems using evolving technology to expedite the response and arrival of law enforcement in the event of a threat or emergency at a school. The committee shall develop policies and strategies appropriate for a range of different threat or emergency scenarios.

(2)(a) The school safety advisory committee shall also develop recommendations related to incorporating school safety features in the

planning and design of new or remodeled school facilities. The recommendations shall address, at a minimum:

- (i) Options to address public access to school buildings and grounds;
- (ii) Interior design features to address public access to classrooms; and
- (iii) Options and best practices to protect students and staff in the event of a threat during school hours.

(b) The recommendations shall consider and provide flexibility regarding varying campus designs, geographic locations, site-specific needs, grade-level configurations, cost-effectiveness, and coordination with local law enforcement in a manner suitable to the locale.

(3) The school safety advisory committee shall submit a report to the education committees of the legislature by December 1, 2013, and post the report, model policies and recommendations developed under this section, and other resource information to assist school districts on the school safety center web site.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28A.300 RCW to read as follows:

Subject to funds appropriated specifically for this purpose, the office of the superintendent of public instruction shall allocate grants to school districts on a competitive basis for the purpose of implementing emergency response systems using evolving technology to expedite the response and arrival of law enforcement in the event of a threat or emergency at a school."

Correct the title.

Signed by Representatives Santos, Chair; Stonier, Vice Chair; Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Bergquist; Fagan; Haigh; Hargrove; Hawkins; Hayes; Klippert; Maxwell; McCoy; Orwall; Parker; Pike; Pollet and Warnick.

MINORITY recommendation: Do not pass. Signed by Representatives Hunt; Lytton and Seaquist.

Referred to Committee on Capital Budget.

April 2, 2013

**SSB 5308** Prime Sponsor, Committee on Human Services & Corrections: Establishing the commercially sexually exploited children statewide coordinating committee. Reported by Committee on Public Safety

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 7.68 RCW to read as follows:

(1) The commercially sexually exploited children statewide coordinating committee is established to address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices.

(2) The committee is convened by the office of the attorney general and consists of the following members:

- (a) One member from each of the two largest caucuses of the house of representatives appointed by the speaker of the house;
- (b) One member from each of the two largest caucuses of the senate appointed by the speaker of the senate;
- (c) A representative of the governor's office appointed by the governor;

(d) The secretary of the children's administration or his or her designee;

(e) The secretary of the juvenile rehabilitation administration or his or her designee;

(f) The attorney general or his or her designee;

(g) The superintendent of public instruction or his or her designee;

(h) A representative of the administrative office of the courts appointed by the administrative office of the courts;

(i) The executive director of the Washington association of sheriffs and police chiefs or his or her designee;

(j) The executive director of the Washington state criminal justice training commission or his or her designee;

(k) A representative of the Washington association of prosecuting attorneys appointed by the association;

(l) The executive director of the office of public defense or his or her designee;

(m) Three representatives of community service providers that provide direct services to commercially sexually exploited children appointed by the attorney general;

(n) Two representatives of nongovernmental organizations familiar with the issues affecting commercially sexually exploited children appointed by the attorney general;

(o) The president of the superior court judges' association or his or her designee;

(p) The president of the juvenile court administrators or his or her designee;

(q) Any existing chairs of regional task forces on commercially sexually exploited children;

(r) A representative from the criminal defense bar;

(s) A representative of the center for children and youth justice;

(t) A representative from the office of crime victims advocacy; and

(u) The executive director of the Washington coalition of sexual assault programs.

(3) The duties of the committee include, but are not limited to:

(a) Overseeing and reviewing the implementation of the Washington state model protocol for commercially sexually exploited children at pilot sites;

(b) Receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas as well as data information regarding perpetrators, geographic data and location trends, and any other data deemed relevant;

(c) Receiving reports on local coordinated community response practices and results of the community responses;

(d) Reviewing recommendations from local and regional entities regarding policy and legislative changes that would improve the efficiency and effectiveness of local response practices;

(e) Making recommendations regarding policy and legislative changes that would improve the effectiveness of the state's response to and promote best practices for suppression of the commercial sexual exploitation of children;

(f) Making recommendations regarding data collection useful to understanding or addressing the problem of commercially sexually exploited children; and

(g) Reviewing and making recommendations regarding strategic local investments or opportunities for federal and state funding to address the commercial sexual exploitation of children.

(4) The committee must meet no less than annually.

(5) The committee shall report its findings to the appropriate committees of the legislature and to any other known statewide committees addressing trafficking or the commercial sex trade by June 30th of each year.

(6) This section expires June 30, 2015."

Correct the title.



Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Moscoso; Pettigrew; Ross and Takko.

Passed to Committee on Rules for second reading.

April 2, 2013  
ESSB 5312 Prime Sponsor, Committee on Financial Institutions, Housing & Insurance: Authorizing small consumer installment loans. Reported by Committee on Business & Financial Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authenticate" means the same as defined in RCW 62A.9A-102.

(2) "Borrower" means a natural person who receives a small consumer installment loan.

(3) "Controlling person" means a person owning or controlling ten percent or more of the total outstanding shares of the applicant or licensee, if the applicant or licensee is a corporation, and a member who owns ten percent or more of a limited liability company or limited liability partnership.

(4) "Director" means the director of financial institutions.

(5) "Final payment date" means the date of the borrower's last scheduled payment on a small consumer installment loan.

(6) "Gross monthly income" means a borrower's or potential borrower's gross monthly income as demonstrated by documentation of income, including, but not limited to, a pay stub, documentation reflecting receipt of public benefits, tax returns, bank statements, or other documentation showing the source of income. A lender shall require a borrower or potential borrower to provide a pay stub or other evidence of income at least once each twelve-month period. This evidence must not be over forty-five days old when presented.

(7) "License" means a license issued by the director under this chapter.

(8) "Licensee" means a single small consumer installment lender licensed by the director to engage in business in accordance with this chapter. "Licensee" also means a small consumer installment lender, whether located within or outside of this state, who fails to obtain a license required by this chapter.

(9) "Loaned amount" means the initial principal amount of the loan exclusive of any interest, fees, penalties, or charges authorized by this chapter.

(10) "Military borrower" means:

(a) A "covered borrower" as defined in 32 C.F.R. Sec. 232.3; and

(b)(i) A member of the reserve components of the United States army, navy, air force, marine corps, coast guard, army national guard, or air national guard; and

ii) A spouse or dependent child of a person under (b)(i) of this subsection.

(11) "Person" means an individual, partnership, association, limited liability company, limited liability partnership, trust, corporation, and any other legal entity.

(12) "Record" means the same as defined in RCW 62A.1-201.

(13) "Scheduled payment" means any single payment disclosed in a payment schedule on a federal truth in lending act disclosure. "Scheduled payment" does not mean an actual payment on a date different than a payment on the loan payment schedule, or the

payment in full of a loan before the final payment date on the loan payment schedule.

(14) "Small consumer installment loan" means a loan made to a natural person in a single advance with terms as provided for in this chapter.

(15) "Truth in lending act" means the truth in lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Part 1026.

**NEW SECTION. Sec. 2. APPLICABILITY.** (1) Any small consumer installment loan made to a resident of this state 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; or

(b) Loans made under chapters 19.60, 31.04, and 31.45 RCW.

**NEW SECTION. Sec. 3. LICENSE REQUIRED.** No person may engage in advertising or making small consumer installment loans without first obtaining a license from the director in accordance with this chapter. A license is required for each location where a licensee engages in the business of making small consumer installment loans.

**NEW SECTION. Sec. 4. LICENSE--APPLICATION--FEE--BOND--INFORMATION FROM APPLICANTS.** (1) Each application for a license must be in writing in a form prescribed by the director and must contain the following information:

(a) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, limited liability company, limited liability partnership, or corporation, of every member, officer, principal, or director thereof;

(b) The location where the initial registered office of the applicant will be located;

(c) The complete address of any other locations at which the applicant currently proposes to engage in making small consumer installment loans; and

(d) Such other data, financial statements, and pertinent information as the director may require with respect to the applicant, its members, principals, or officers.

(2) As part of or in connection with an application for any license under this section, or periodically upon license renewal, each officer, director, and owner applicant shall furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol or the federal bureau of investigation for a state and national criminal history background check, personal history, experience, business record, purposes, and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this chapter, or periodically upon license renewal, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The director may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles 30, 32, and 33 RCW.

(3) Any information in the application regarding the personal residential address or telephone number of the applicant, any financial information about the applicant and entities owned or controlled by the applicant, and any trade secret as defined in RCW 19.108.010 including any financial statement that is a trade secret, is exempt from the public records disclosure requirements of chapter 42.56 RCW.

(4) The application must be filed together with an application fee established by rule by the director. The fees collected must be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

(5) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety

company authorized to do a surety business in this state as surety, whose liability as a surety does not exceed, in the aggregate, the penal sum of the bond. The penal sum of the bond must be a minimum of thirty thousand dollars and a maximum of two hundred fifty thousand dollars based on the annual dollar amount of loans originated. The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter.

**NEW SECTION. Sec. 5. APPLICATION FOR LICENSE--FINANCIAL RESPONSIBILITY--DIRECTOR'S INVESTIGATION.** (1) The director shall conduct an investigation of every applicant to determine the financial responsibility, experience, character, and general fitness of the applicant. The director shall issue the applicant a license to engage in the business of making small consumer installment loans, if the director determines that:

- (a) The applicant has satisfied the licensing requirements of this chapter;
- (b) The applicant is financially responsible and appears to be able to conduct the business of making small consumer installment loans in an honest, fair, and efficient manner with the confidence and trust of the community and in accordance with this chapter; and
- (c) The applicant has the required bond.

(2) The director may refuse to issue a license if he or she finds that the applicant, or any person who is a director, officer, partner, agent, sole proprietor, owner, or controlling person of the applicant, has been convicted of a felony in any jurisdiction within seven years of filing the present application or is associating or consorting with any person who has been convicted of a felony in any jurisdiction within seven years of filing the present application.

(3) A license may not be issued to an applicant:

- (a) Whose license to conduct business under this chapter, or any similar statute in any other jurisdiction, has been suspended or revoked within five years of the filing of the present application;
- (b) Who has been banned from the industry by an administrative order issued by the director or the director's designee, for the period specified in the administrative order; or
- (c) Who has advertised or made internet loans in violation of this chapter.

(4) A license issued in accordance with this chapter remains in force and effect until surrendered, suspended, or revoked, or until the license expires as a result of nonpayment of the annual assessment fee as defined in this chapter.

**NEW SECTION. Sec. 6. MULTISTATE LICENSING SYSTEM--DIRECTOR'S DISCRETION.** Applicants may be required to make application through a multistate licensing system as prescribed by the director. Existing licensees may be required to transition onto a multistate licensing system as prescribed by the director.

**NEW SECTION. Sec. 7. TERMS OF LOANS.** A small consumer installment loan must include the following terms:

- (1) The interest charged on the loaned amount is less than or equal to thirty-six percent per annum, exclusive of fees, penalties, or charges authorized by this chapter;
- (2) A maximum loaned amount of one thousand five hundred dollars;
- (3) The loaned amount is fully repayable in substantially equal and consecutive installments according to a payment schedule agreed to by the parties with not less than fourteen days and not more than thirty-five days between each scheduled payment;
- (4) A minimum loan term of six months;

- (5) A maximum loan term of twelve months;
- (6) The loan amortizes;
- (7) The borrower's repayment obligations are not secured by a lien on any real or personal property; and
- (8) The loan is made primarily for personal, family, or household purposes.

**NEW SECTION. Sec. 8. LIMITATIONS ON INTEREST AND CHARGES.** Notwithstanding any other provision of law, a licensee:

(1) May charge, contract for, and receive interest of no more than thirty-six percent per annum on the outstanding unpaid principal balance of the loaned amount, exclusive of fees, penalties, or charges authorized by this chapter;

(2) May charge a loan origination fee not to exceed fifteen percent of the loaned amount. The fee is earned at the time the loan is made and up to one-half of which is subject to a pro rata refund. If the loan is paid in full prior to the final payment date, the borrower is entitled to a refund equal to fifty percent of the loan origination fee multiplied by a fraction whose numerator is the number of days between the date on which the loan is paid in full and the final payment date, and whose denominator is the number of days in the original loan term. Notwithstanding this subsection, a licensee must provide a full refund of all charges after rescission as provided in section 12 of this act;

(3) May charge a monthly maintenance fee not to exceed seven dollars and fifty cents per one hundred dollars of the loaned amount on the thirtieth day after the day when the loan is originated. The fee may be charged after every subsequent thirty-day period when there is an outstanding balance. The fee may not exceed a maximum of ninety dollars in any month;

(4) Is prohibited from making a small consumer installment loan to a borrower if the total of all scheduled payments to be made in any month exceeds fifteen percent of the borrower's gross monthly income;

(5) May, in the event that any scheduled payment is delinquent ten days or more:

- (a) Charge and collect a penalty of not more than twenty-five dollars per loan; and
- (b) Declare the entire loan due and payable and proceed to collect the loan in accordance with this chapter;
- (6) May collect from the borrower reasonable attorneys' fees, actual expenses, and costs incurred in connection with the collection of any amounts due to a licensee with respect to a small consumer installment loan;

(7) Is prohibited from charging a prepayment fee. A borrower is allowed to pay all or part of a loan before the maturity date without incurring any additional fee;

(8) Is prohibited from requiring a borrower to purchase add-on products such as credit insurance; and

(9) Is prohibited from charging any other interest, fees, penalties, or charges, except those provided in subsections (1) through (3), (5), and (6) of this section.

**NEW SECTION. Sec. 9. LOAN AGREEMENT--REQUIRED CONTENTS.** A licensee making a small consumer installment loan must document the transaction by use of a record authenticated by the licensee and the borrower. This record must set forth the terms and conditions of the loan, including, but not limited to:

- (1) The name and address of the borrower and the licensee;
- (2) The transaction date;
- (3) The loaned amount;
- (4) A statement of the total amount of finance charges charged, expressed both as a dollar amount and an annual percentage rate, calculated in accordance with the truth in lending act;
- (5) The installment payment schedule;
- (6) The right to rescind the loan on or before the close of business on the next day of business at the location where the loan was originated;

(7) A notice to the borrower that delinquency on one scheduled payment may result in a penalty of not more than twenty-five dollars per delinquent loan and/or acceleration of the loan;

(8) A notice to the borrower that early repayment of a small consumer installment loan will result in a refund as provided in section 8(2) of this act;

(9) The notice regarding the repayment plan required by section 16 of this act;

(10) A description of the manner and methods by which loan payments may be made, which include cash, check, automatic clearing house transactions, debit authorization, or additional method of loan payment authorized by the director after rule making; and

(11) A notice to the borrower in at least twelve-point type that states:

A SMALL CONSUMER INSTALLMENT LOAN IS NOT INTENDED TO MEET LONG-TERM FINANCIAL NEEDS.

A SMALL CONSUMER INSTALLMENT LOAN SHOULD BE USED ONLY TO MEET SHORT-TERM CASH NEEDS.

WHILE YOU ARE NOT REQUIRED TO REPAY THIS LOAN BEFORE ITS DUE DATE, IT IS IN YOUR BEST INTEREST TO DO SO. THE SOONER YOU REPAY THE LOAN, THE LESS IN INTEREST, FEES, AND OTHER CHARGES YOU WILL PAY.

No licensee may condition an extension of credit under a small consumer installment loan on the borrower's repayment by preauthorized electronic fund transfers. Payment options including, but not limited to, automatic clearing house transactions and other electronic fund transfers may be offered to borrowers as a choice with the method or methods of payment chosen by the borrower.

**NEW SECTION. Sec. 10. NOTICE OF FEES AND CHARGES--RECEIPT.** (1) A schedule of the fees, penalties, and charges for taking out a small consumer installment loan must be conspicuously and continuously posted in every location licensed under this chapter.

(2) The licensee shall provide to its customer a receipt for each transaction. The receipt must include the name of the licensee, the type and amount of the transaction, and the fees and charges charged for the transaction.

**NEW SECTION. Sec. 11. DISBURSEMENT OF PROCEEDS.** A licensee may disburse the proceeds of a small consumer installment loan in the form of a check drawn on the licensee's bank account, in cash, by money order, by prepaid card, by electronic funds transfer, or by other method authorized by the director after rule making.

**NEW SECTION. Sec. 12. RESCISSION.** A borrower may rescind a small consumer installment loan, on or before the close of business on the next day of business at the location where the loan was originated, by returning the principal in cash, the original check disbursed by the licensee, or the other disbursement of loan proceeds from the licensee to fund the loan. The licensee may not charge the borrower for rescinding the loan and must refund any loan fees and interest received. The licensee shall conspicuously disclose to the borrower the right of rescission in writing in the loan agreement.

**NEW SECTION. Sec. 13. DELINQUENT SMALL CONSUMER INSTALLMENT LOAN--RESTRICTIONS ON COLLECTION BY LICENSEE OR THIRD PARTY.** (1) A licensee shall comply with all applicable state and federal laws when collecting a delinquent small consumer installment loan. A licensee may take civil action to collect principal, interest, fees, penalties, charges, and costs allowed under this chapter. A licensee may not threaten criminal prosecution as a method of collecting a delinquent small consumer installment loan or threaten to take any legal action against the borrower which the licensee may not legally take.

(2) Unless invited by the borrower, a licensee may not visit a borrower's residence or place of employment for the purpose of collecting a delinquent small consumer installment loan. A licensee may not impersonate a law enforcement official, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collecting a small consumer installment loan.

(3) A licensee may not communicate with a borrower in such a manner as to harass, intimidate, abuse, or embarrass a borrower, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, or by use of offensive language. A communication is presumed to have been made for the purposes of harassment if it is initiated by the licensee for the purposes of collection and:

(a) It is made with a borrower, spouse, or domestic partner in any form, manner, or place, more than three times in a single week;

(b) It is made with a borrower at his or her place of employment more than one time in a single week or made to a borrower after the licensee has been informed that the borrower's employer prohibits these communications;

(c) It is made with the borrower, spouse, or domestic partner at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.; or

(d) It is made to a party other than the borrower, the borrower's attorney, the licensee's attorney, or a consumer reporting agency if otherwise permitted by law except for purposes of acquiring location or contact information about the borrower.

(4) A licensee is required to maintain a communication log of all telephone and written communications with a borrower initiated by the licensee regarding any collection efforts including date, time, and the nature of each communication.

(5) If a dishonored check is assigned to any third party for collection, this section applies to the third party for the collection of the dishonored check.

(6) For the purposes of this section, "communication" includes any contact with a borrower, initiated by the licensee, in person, by telephone, or in writing (including e-mails, text messages, and other electronic writing) regarding the collection of a delinquent small consumer installment loan, but does not include any of the following:

(a) Communication while a borrower is physically present in the licensee's place of business;

(b) An unanswered telephone call in which no message (other than a caller ID) is left, unless the telephone call violates subsection (7)(c) of this section; and

(c) An initial letter to the borrower that includes disclosures intended to comply with the federal fair debt collection practices act.

(a) A communication occurs at the time it is initiated by a licensee regardless of the time it is received or accessed by the borrower; and

(b) A call to a number that the licensee reasonably believes is the borrower's cell phone will not constitute a communication with a borrower at the borrower's place of employment.

(8) For the purposes of this section, "week" means a series of seven consecutive days beginning on a Sunday.

**NEW SECTION. Sec. 14. LOAN FREQUENCY LIMITATIONS.** (1) No licensee may extend to or have open with a borrower more than one small consumer installment loan at any time unless:

(a) The total of all scheduled payments to be made in any month under all of the small consumer installment loans made by any licensee to a borrower does not exceed fifteen percent of the borrower's gross monthly income; and

(b) The unpaid principal balance of any and all small consumer installment loans to a borrower does not exceed one thousand five hundred dollars.

(7) For the

(2) A borrower is prohibited from receiving more than twelve small consumer installment loans from all licensees in any twelve-month period. A licensee is prohibited from making a small consumer installment loan to a borrower if making that small consumer installment loan would result in a borrower receiving more than twelve small consumer installment loans from all licensees in any twelve-month period.

(3) A licensee is prohibited from extending a small consumer installment loan to a borrower who:

(a) Has an outstanding small consumer installment loan with another licensee; or

(b) Is in a repayment plan for a small consumer installment loan with another licensee.

(4) A licensee is prohibited from extending a small consumer installment loan at any time to a borrower who:

(a) Has a small loan made by a licensee under chapter 31.45 RCW; or

(b) Is in an installment plan under RCW 31.45.088.

(5) The director has broad rule-making authority to adopt and implement a database system to carry out subsections (1) through (4) of this section. This includes, but is not limited to, taking the steps necessary to contract a database vendor, and set licensee fees to operate and administer the database system.

(6) The information in the database described in this section is exempt from public disclosure under chapter 42.56 RCW.

**NEW SECTION. Sec. 15. MILITARY BORROWERS.** (1) A licensee is prohibited from extending a small consumer installment loan to any military borrower. In determining if a borrower is a military borrower and is ineligible to obtain a small consumer installment loan, a licensee may rely upon a statement provided by a borrower on a form prescribed by rule by the director. The form must apply standards to all military borrowers that are similar to the covered borrower identification statement standards of 32 C.F.R. Sec. 232.5(a)(1).

(2) The director must adopt rules to implement this section.

**NEW SECTION. Sec. 16. REPAYMENT PLAN.** (1) Before a licensee may bring a civil action to collect the outstanding balance on a small consumer installment loan in default, the licensee must offer that borrower an opportunity to enter into a repayment plan.

(2) A licensee is required to make the repayment plan offer available for a period of at least thirty days after the date of the original offer to the borrower. The licensee is not required to make such an offer more than once for each loan.

(3) The repayment plan offer must:

(a) Be in writing;

(b) Be sent to the borrower's last known address;

(c) State the date by which the borrower must act to enter into a repayment plan;

(d) Explain the procedures the borrower must follow to enter into a repayment plan;

(e) If a licensee requires the borrower to make an initial payment to enter into a repayment plan as allowed in subsection (4) of this section, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(f) State that the borrower has the opportunity to enter into a repayment plan with a term of at least ninety days after the date the repayment plan is entered into; and

(g) State the following amounts:

(i) The total of payments or the remaining balance on the original loan;

(ii) Any payments made on the loan;

(iii) Any charges added to the loan amount allowed under this chapter; and

(iv) The total amount due if the borrower enters into a repayment plan.

(4) Under the terms of any repayment plan:

(a) The borrower must enter into the repayment plan not later than thirty days after the date of the repayment plan offer, unless the licensee allows a longer period;

(b) The period for the repayment plan must be at least ninety days after the date the repayment plan is entered into, unless the borrower agrees to a shorter term; and

(c) The licensee may require the borrower to make an initial payment of not more than twenty percent of the total amount due under the terms of the repayment plan.

(5)(a) If a licensee and borrower enter into a repayment plan, the licensee must honor the terms of the repayment plan;

(b) In a repayment plan, a licensee may recover the amount the borrower was required to pay the licensee under the contract prior to the default;

(c) A licensee may charge the initial payment portion of the borrower's existing debt allowed under subsection (4) of this section;

(d) A licensee is prohibited from charging any fee, penalty, or interest in connection with a payment plan unless that fee, penalty, or interest was incurred prior to the time of the default. For the purposes of this section, a delinquency fee allowed under section 8(5)(a) of this act is incurred prior to the time of the default, and a licensee may charge and collect a fee as allowed under section 8(5)(a) of this act;

(e) A licensee is prohibited from accepting any security or collateral from the borrower to enter into the repayment plan;

(f) A licensee is prohibited from selling to the borrower any insurance or require the borrower to purchase insurance or any other goods or services to enter into the repayment plan; and

(g) A licensee is prohibited from attempting to collect an amount that is greater than the amount owed under the terms of the repayment plan.

(6) If the licensee and borrower enter into a repayment plan, the agreement must be in writing. The written agreement must contain all of the terms of the repayment plan, including the total amount due under the terms of the repayment plan. The written repayment agreement must be signed by the licensee and borrower. The licensee must give the borrower a copy of the signed written repayment agreement.

(7) If a borrower defaults on a repayment plan, the licensee may bring a civil action and pursue any other remedy authorized by law to collect the outstanding balance owed by the borrower.

**NEW SECTION. Sec. 17. RESTRICTION ON TRANSFER.** No licensee may pledge, negotiate, sell, or assign a small consumer installment loan, except to another licensee or to a bank, savings bank, trust company, savings and loan or building and loan association, or credit union organized under the laws of Washington or the laws of the United States.

**NEW SECTION. Sec. 18. PROHIBITED ACTS.** (1) It is a violation of this chapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to:

(a) Fail to make disclosures to loan applicants as required by any applicable federal law;

(b) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(c) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(d) Directly or indirectly obtain property by fraud or misrepresentation;

(e) Make a small consumer installment loan to any person physically located in Washington through the use of the internet, facsimile, telephone, kiosk, or other means without first obtaining a license;

(f) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms

or conditions for a small consumer installment loan or engage in bait and switch advertising;

(g) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department of financial institutions by a licensee or in connection with any investigation conducted by the department of financial institutions;

(h) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest or otherwise fail to comply with any requirement of the truth in lending act, or any other applicable state or federal statutes or regulations;

(i) Make small consumer installment loans from any unlicensed location;

(j) Fail to comply with all applicable state and federal statutes relating to the activities governed by this chapter; or

(k) Fail to pay any other fee, assessment, or moneys due the department of financial institutions.

(2) In addition to any other penalties, any transaction in violation of subsection (1) of this section is uncollectible and unenforceable.

**NEW SECTION. Sec. 19. INTERNET LENDING.** (1) A licensee may advertise and accept applications for small consumer installment loans by any lawful medium, including the internet.

(2) Nonlicensees are prohibited from advertising or making small consumer installment loans via the internet.

**NEW SECTION. Sec. 20. INVESTIGATION AND EXAMINATION FEES AND ANNUAL ASSESSMENT FEE REQUIRED--AMOUNTS DETERMINED BY RULE--FAILURE TO PAY--NOTICE REQUIREMENTS OF LICENSEE.** (1) Each applicant and licensee shall pay to the director an investigation and examination fee as established in rule and an annual assessment fee for the coming year in an amount determined by rule as necessary to cover the operation of the program. The annual assessment fee is due upon the annual assessment fee due date as established in rule. Nonpayment of the annual assessment fee may result in expiration of the license as provided in subsection (2) of this section. In establishing the fees, the director shall consider at least the volume of business, level of risk, and potential harm to the public related to each activity. The fees collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

(2) If a licensee does not pay its annual assessment fee by the annual assessment fee due date as specified in rule, the director or the director's designee shall send the licensee a notice of expiration and assess the licensee a late fee not to exceed fifteen percent of the annual assessment fee as established in rule by the director. The licensee's payment of both the annual assessment fee and the late fee must arrive in the department of financial institutions' offices by 5:00 p.m. on the tenth day after the annual assessment fee due date, unless the department of financial institutions is not open for business on that date, in which case the licensee's payment of both the annual assessment fee and the late fee must arrive in the department of financial institutions' offices by 5:00 p.m. on the next occurring day that the department of financial institutions is open for business. If the payment of both the annual assessment fee and the late fee does not arrive prior to such time and date, then the expiration of the licensee's license is effective at 5:00 p.m. on the thirtieth day after the assessment fee due date. The director or the director's designee may reinstate the license if, within fifteen days after the effective date of expiration, the licensee pays the annual assessment fee and the late fee.

(3) If a licensee intends to do business at a new location, to close an existing place of business, or to relocate an existing place of business, the licensee shall provide written notification of that intention to the director no less than thirty days before the proposed establishing, closing, or moving of a place of business.

**NEW SECTION. Sec. 21. LICENSEE--RECORDKEEPING.** Each licensee shall keep and maintain the business books, accounts, and records the director may require to fulfill the purposes of this chapter. Every licensee shall preserve the books, accounts, and records as required in rule by the director for at least two years from the completion of the transaction. Records may be maintained on an electronic, magnetic, optical, or other storage media. However, the licensee must maintain the necessary technology to permit access to the records by the department of financial institutions for the period required under this chapter.

**NEW SECTION. Sec. 22. EXAMINATION OR INVESTIGATION--DIRECTOR'S AUTHORITY--COSTS.** The director or the director's designee may at any time examine and investigate the business and examine the books, accounts, records, and files, or other information, wherever located, of any licensee or person who the director has reason to believe is engaging in the business governed by this chapter. For these purposes, the director or the director's designee may require the attendance of and examine under oath all persons whose testimony may be required about the business or the subject matter of the investigation. The director or the director's designee may require the production of original books, accounts, records, files, or other information, or may make copies of such original books, accounts, records, files, or other information. The director or the director's designee may issue a subpoena or subpoena duces tecum requiring attendance and testimony, or the production of the books, accounts, records, files, or other information. The director shall collect from the licensee the actual cost of the examination and investigation.

**NEW SECTION. Sec. 23. SUBPOENA AUTHORITY--APPLICATION--CONTENTS--NOTICE--FEES.** (1) The director or authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the director's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the director's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the director to subpoena the documents, records, evidence, or testimony.

(3) The director or authorized assistants may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3).

**NEW SECTION. Sec. 24. REPORT REQUIREMENTS--DISCLOSURE OF INFORMATION--RULES.** (1) Each licensee shall submit to the director, in a form approved by the director, a report containing financial statements covering the calendar year or, if the licensee has an established fiscal year, then for that fiscal year, within one hundred five days after the close of each calendar or fiscal year. The licensee shall also file additional relevant information as the director may require. Any information provided by a licensee in an annual report is exempt from disclosure under chapter 42.56 RCW, unless aggregated with information supplied by other licensees in a manner that the licensee's individual information is not identifiable.

Any information provided by the licensee that allows identification of the licensee may only be used by the director for purposes reasonably related to the regulation of licensees to ensure compliance with this chapter.

(2) The director shall adopt rules specifying the form and content of annual reports and may require additional reporting as is necessary for the director to ensure compliance with this chapter.

(3) A licensee whose license has been suspended or revoked shall submit to the director, at the licensee's expense, within one hundred five days after the effective date of the suspension or revocation, a closing audit report containing audited financial statements as of the effective date for the twelve months ending with the effective date.

(4) The director is authorized to enter into agreements or sharing arrangements regarding licensee reports, examination, or investigation information with other governmental agencies, the conference of state bank supervisors, the American association of residential mortgage regulators, the national association of consumer credit administrators, or other associations representing governmental agencies as established by rule, regulation, or order of the director.

**NEW SECTION. Sec. 25. DIRECTOR--BROAD ADMINISTRATIVE DISCRETION--RULE MAKING--ACTIONS IN SUPERIOR COURT.** The director has the power, and broad administrative discretion, to administer, liberally construe, and interpret this chapter to facilitate the delivery of financial services to the citizens of this state by licensees subject to this chapter, and to effectuate the legislature's goal to protect borrowers. The director shall adopt all rules necessary to administer this chapter, to establish and set fees authorized by this chapter, and to ensure complete and full disclosure by licensees of lending transactions governed by this chapter.

**NEW SECTION. Sec. 26. VIOLATIONS OR UNSOUND FINANCIAL PRACTICES--STATEMENT OF CHARGES--HEARING--SANCTIONS--DIRECTOR'S AUTHORITY.** (1) The director may issue and serve upon a licensee or applicant, or any director, officer, sole proprietor, partner, or controlling person of a licensee or applicant, a statement of charges if, in the opinion of the director, any licensee or applicant, or any director, officer, sole proprietor, partner, or controlling person of a licensee or applicant:

(a) Is engaging or has engaged in an unsafe or unsound financial practice in conducting a business governed by this chapter;

(b) Is violating or has violated this chapter, including violations of:

(i) Any rules, orders, or subpoenas issued by the director under any act;

(ii) Any condition imposed in writing by the director in connection with the granting of any application or other request by the licensee; or

(iii) Any written agreement made with the director;

(c) Obtains a license by means of fraud, misrepresentation, or concealment;

(d) Provides false statements or omits material information on an application;

(e) Knowingly or negligently omits material information during or in response to an examination or in connection with an investigation by the director;

(f) Fails to pay a fee or assessment required by the director or any multistate licensing system prescribed by the director, or fails to maintain the required bond;

(g) Commits a crime against the laws of any jurisdiction involving moral turpitude, financial misconduct, or dishonest dealings. For the purposes of this section, a certified copy of the final holding of any court, tribunal, agency, or administrative body of competent jurisdiction is conclusive evidence in any hearing under this chapter;

(h) Knowingly commits or is a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme,

or device whereby any other person relying upon the word, representation, or conduct acts to his or her injury or damage;

(i) Wrongly converts any money or its equivalent of any other person to his or her own use or to the use of his or her principal;

(j) Fails to disclose to the director any material information within his or her knowledge or fails to produce any document, book, or record in his or her possession for inspection by the director upon lawful demand;

(k) Commits any act of fraudulent or dishonest dealing. For the purposes of this section, a certified copy of the final holding of any court, tribunal, agency, or administrative body of competent jurisdiction is conclusive evidence in any hearing under this chapter;

(l) Commits an act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury and loss to the public; or

(m) Violates any applicable state or federal law relating to the activities governed by this chapter.

(2) The director may issue and serve upon a licensee or applicant, or any director, officer, sole proprietor, partner, or controlling person of the licensee or applicant, a statement of charges if the director has reasonable cause to believe that the licensee or applicant is about to do acts prohibited in subsection (1) of this section.

(3) The statement of charges must be issued under chapter 34.05 RCW. The director or the director's designee may impose the following sanctions against any licensee or applicant, or any directors, officers, sole proprietors, partners, controlling persons, or employees of a licensee or applicant:

(a) Deny, revoke, suspend, or condition a license;

(b) Order the licensee or person to cease and desist from practices that violate this chapter;

(c) Impose a fine not to exceed one hundred dollars per day per violation of this chapter;

(d) Order restitution or refunds to borrowers or other affected parties for violations of this chapter or take other affirmative action as necessary to comply with this chapter; and

(e) Remove from office or ban from participation in the affairs of any licensee any director, officer, sole proprietor, partner, controlling person, or employee of a licensee.

(4) The proceedings to impose the sanctions described in subsection (3) of this section, including any hearing or appeal of the statement of charges, are governed by chapter 34.05 RCW.

(5) Unless the licensee or person personally appears at the hearing or is represented by a duly authorized representative, the licensee is deemed to have consented to the statement of charges and the sanctions imposed in the statement of charges.

(6) Except to the extent prohibited by another statute, the director may engage in informal settlement of complaints or enforcement actions including, but not limited to, payment to the department of financial institutions for purposes of financial literacy and education programs authorized under RCW 43.320.150.

**NEW SECTION. Sec. 27. VIOLATIONS OR UNSOUND PRACTICES--TEMPORARY CEASE AND DESIST ORDER--DIRECTOR'S AUTHORITY.** Whenever the director determines that the acts specified in section 26 of this act or their continuation is likely to cause insolvency or substantial injury to the public, the director may also issue a temporary cease and desist order requiring the licensee to cease and desist from the violation or practice. The order becomes effective upon service upon the licensee and remains effective unless set aside, limited, or suspended by a court under section 28 of this act pending the completion of the administrative proceedings under the notice and until the time the director dismisses the charges specified in the notice or until the effective date of a superior court injunction under section 28 of this act.

**NEW SECTION. Sec. 28. TEMPORARY CEASE AND DESIST ORDER--LICENSEE'S APPLICATION FOR INJUNCTION.** Within ten days after a licensee has been served with

a temporary cease and desist order, the licensee may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under section 27 of this act. The superior court has jurisdiction to issue the injunction.

**NEW SECTION. Sec. 29. VIOLATION OF TEMPORARY CEASE AND DESIST ORDER--DIRECTOR'S APPLICATION FOR INJUNCTION.** In the case of a violation or threatened violation of a temporary cease and desist order issued under section 27 of this act, the director may apply to the superior court of the county of the principal place of business of the licensee for an injunction.

**NEW SECTION. Sec. 30. APPOINTMENT OF RECEIVER.** The director may petition the superior court for the appointment of a receiver to liquidate the affairs of the licensee.

**NEW SECTION. Sec. 31. VIOLATION--CONSUMER PROTECTION ACT--REMEDIES.** The legislature finds and declares that any violation of this chapter substantially affects the public interest and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce as set forth in RCW 19.86.020. Remedies available under chapter 19.86 RCW do not affect any other remedy the injured party may have.

**NEW SECTION. Sec. 32. ADJUSTMENT OF DOLLAR AMOUNTS.** The dollar amounts established in section 7(2) and 14(1)(b) of this act must, without discretion, be adjusted for inflation by the director on July 1, 2014, and on each July 1st thereafter, based upon changes in the consumer price index during that time period, and then rounded up to the nearest five dollars. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The director must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

**NEW SECTION. Sec. 33. REPORT TO LEGISLATURE.** The director must collect and submit the following information to the legislature by December 1, 2015, for data collected during 2014:

- (1) The number of branches and total locations;
- (2) The number of loans made during 2014;
- (3) Loan volume;
- (4) Average loan amount;
- (5) Total fees charged, in total and by category of fee or other charge;
- (6) Average payment per month, in total and by category of fee or other charge;
- (7) Average income of borrower;
- (8) The number of borrowers who are in the military;
- (9) Borrower frequency;
- (10) The number of unique customers;
- (11) Average length of loan repayment;
- (12) The number of borrowers taking out the maximum loan amount;
- (13) The number of borrowers who went into default;
- (14) Average length of time a borrower has a loan before a borrower goes into default;
- (15) Any legislative recommendations by the director; and
- (16) Any other information that the director believes is relevant or useful.

**NEW SECTION. Sec. 34.** For each small consumer installment loan that is made, a licensee must remit one dollar to the department

of financial institutions for the purpose of financial literacy and education programs authorized under RCW 43.320.150. The director shall adopt rules to implement this section.

**NEW SECTION. Sec. 35. SHORT TITLE.** This act may be known and cited as the small consumer installment loan act.

**NEW SECTION. Sec. 36.** If any portion of this act is vetoed by the governor, this entire act is null and void.

**NEW SECTION. Sec. 37.** Sections 1 through 35 of this act constitute a new chapter in Title 31 RCW."

Correct the title.

Signed by Representatives Kirby, Chair; Parker, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake; Chandler; Hawkins; Hudgins; Hurst; Kochmar; MacEwen; O'Ban; Santos and Stanford.

MINORITY recommendation: Do not pass. Signed by Representatives Ryu, Vice Chair and Habib.

Referred to Committee on Appropriations Subcommittee on General Government.

April 2, 2013

SB 5355

Prime Sponsor, Senator Holmquist Newbry:  
Implementing the unemployment insurance integrity provisions of the federal trade adjustment assistance extension act of 2011.  
Reported by Committee on Labor & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 50.16.010 and 2012 c 198 s 11 are each amended to read as follows:

(1) There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund and an administrative contingency fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable.

(2)(a) The unemployment compensation fund shall consist of:

(i) All contributions collected under RCW 50.24.010 and payments in lieu of contributions collected pursuant to the provisions of this title;

(ii) Any property or securities acquired through the use of moneys belonging to the fund;

(iii) All earnings of such property or securities;

(iv) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended;

(v) All money recovered on official bonds for losses sustained by the fund;

(vi) All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended;

(vii) All money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304); ~~((and))~~

(viii) The portion of the additional penalties as provided in RCW 50.20.070(2) that is fifteen percent of the amount of benefits overpaid or deemed overpaid; and

(ix) All moneys received for the fund from any other source.

(b) All moneys in the unemployment compensation fund shall be commingled and undivided.

(3)(a) Except as provided in (b) of this subsection, the administrative contingency fund shall consist of:

(i) All interest on delinquent contributions collected pursuant to this title;

(ii) All fines and penalties collected pursuant to the provisions of this title, except the portion of the additional penalties as provided in RCW 50.20.070(2) that is fifteen percent of the amount of benefits overpaid or deemed overpaid;

(iii) All sums recovered on official bonds for losses sustained by the fund; and

(iv) Revenue received under RCW 50.24.014.

(b) All fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of this title or rules adopted under this title shall be remitted as provided in chapter 3.62 RCW.

(c) Except as provided in (d) of this subsection, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014, shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary solely for:

(i) The proper administration of this title and that insufficient federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(ii) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

(iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

(d)(i) During the 2007-2009 fiscal biennium, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended as appropriated by the legislature for: (A) The cost of the job skills or worker retraining programs at the community and technical colleges and administrative costs at the state board for community and technical colleges; and (B) reemployment services such as business and project development assistance, local economic development capacity building, and local economic development financial assistance at the department of commerce. The remaining appropriation may be expended as specified in (c) of this subsection.

(ii) During the 2009-2011 fiscal biennium, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended by the department of social and health services as appropriated by the legislature for employment and training services and programs in the WorkFirst program, and for the administrative costs of state agencies participating in the WorkFirst program. The remaining appropriation may be expended as specified in (c) of this subsection.

(4) Money in the special account created under RCW 50.24.014(1)(a) may only be expended, after appropriation, for the purposes specified in this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014, 50.44.053, and 50.22.010.

**Sec. 2.** RCW 50.20.070 and 2007 c 146 s 7 are each amended to read as follows:

(1) With respect to determinations delivered or mailed before January 1, 2008, an individual is disqualified for benefits for any week he or she has knowingly made a false statement or

representation involving a material fact or knowingly failed to report a material fact and, as a result, has obtained or attempted to obtain any benefits under the provisions of this title, and for an additional twenty-six weeks beginning with the first week for which he or she completes an otherwise compensable claim for waiting period credit or benefits following the date of the delivery or mailing of the determination of disqualification under this section. However, such disqualification shall not be applied after two years have elapsed from the date of the delivery or mailing of the determination of disqualification under this section.

(2) With respect to determinations delivered or mailed on or after January 1, 2008:

(a) An individual is disqualified for benefits for any week he or she has knowingly made a false statement or representation involving a material fact or knowingly failed to report a material fact and, as a result, has obtained or attempted to obtain any benefits under the provisions of this title;

(b) An individual disqualified for benefits under this subsection for the first time is also:

(i) Disqualified for an additional twenty-six weeks beginning with the Sunday of the week in which the determination is mailed or delivered; and

(ii) With respect to determinations delivered or mailed on or after October 20, 2013, subject to an additional penalty of fifteen percent of the amount of benefits overpaid or deemed overpaid;

(c) An individual disqualified for benefits under this subsection for the second time is also disqualified for an additional fifty-two weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of twenty-five percent of the amount of benefits overpaid or deemed overpaid;

(d) An individual disqualified for benefits under this subsection a third time and any time thereafter is also disqualified for an additional one hundred four weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of fifty percent of the amount of benefits overpaid or deemed overpaid.

(3) All penalties collected under this section must be expended for the proper administration of this title as authorized under RCW 50.16.010 and for no other purposes.

(4) All overpayments and penalties established by such determination of disqualification must be collected as otherwise provided by this title.

**Sec. 3.** RCW 50.29.021 and 2011 c 4 s 14 are each amended to read as follows:

(1) This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date on or after January 4, 2004.

(2)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if the individual qualifies for benefits under:



(i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and become unemployed after having worked and earned wages in the bona fide work; or

(ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through (x).

(3) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer(~~—However, when a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports~~), except as provided in subsection (5) of this section.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Benefits paid to an individual who qualifies for benefits under RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as applicable, shall not be charged to the experience rating account of any contribution paying employer.

(f) With respect to claims with an effective date on or after the first Sunday following April 22, 2005, benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer. This subsection (3)(f) does not apply to the calculation of contribution rates under RCW 50.29.025 for rate year 2010 and thereafter.

(g) The forty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1202 shall not be charged to the experience rating account of any contribution paying employer.

(h) With respect to claims where the minimum amount payable weekly is increased to one hundred fifty-five dollars pursuant to RCW 50.20.1201(3), benefits paid that exceed the benefits that would have been paid if the minimum amount payable weekly had been calculated pursuant to RCW 50.20.120 shall not be charged to the experience rating account of any contribution paying employer.

(i) Upon approval of an individual's training benefits plan submitted in accordance with RCW 50.22.155(2), an individual is considered enrolled in training, and regular benefits beginning with the week of approval shall not be charged to the experience rating account of any contribution paying employer.

(j) Training benefits paid to an individual under RCW 50.22.155 shall not be charged to the experience rating account of any contribution paying employer.

(4)(a) A contribution paying base year employer, except employers as provided in subsection (6) of this section, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster;

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter ~~((50.06-150.60))~~ 50.60 RCW; or

(v) Was hired to replace an employee who is a member of the military reserves or National Guard and was called to federal active military service by the president of the United States and is subsequently laid off when that employee is reemployed by their employer upon release from active duty within the time provided for reemployment in RCW 73.16.035.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

(5) When a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports.

(6) An employer's experience rating account may not be relieved of charges for a benefit payment and an employer who reimburses the trust fund for benefit payments may not be credited for a benefit payment if a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure and the employer or employer's agent has a pattern of such failures. The commissioner has the authority to determine whether the employer has good cause under this subsection.

(a) For the purposes of this subsection, "adequately" means providing accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

(b)(i) For the purposes of this subsection, "pattern" means a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to a claim or claims without establishing good cause for the failure, if the greater of the following calculations for an employer is met:

(A) At least three times in the previous two years; or  
(B) Twenty percent of the total current claims against the employer.

(ii) If an employer's agent is utilized, a pattern is established based on each individual client employer that the employer's agent represents.

**Sec. 4.** RCW 50.20.190 and 2011 c 301 s 17 are each amended to read as follows:

(1) An individual who is paid any amount as benefits under this title to which he or she is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of a back pay award, a settlement affecting the allowance of benefits, fraud, misrepresentation, or willful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of or final payment made on the individual's applicable benefit year for which the purported overpayment was made, whichever is later, unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

(2) The commissioner may waive an overpayment if the commissioner finds that the overpayment was not the result of fraud, misrepresentation, willful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience(~~— PROVIDED, HOWEVER, That the~~). When determining whether the recovery would be against equity and good conscience, the department must consider whether the employer or employer's agent failed to respond timely and adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure pursuant to RCW 50.29.021(6). An overpayment ((sø)) waived under this subsection shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

(3) Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: PROVIDED, That an appeal from any determination covering overpayment only shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within thirty days of the delivery of the notice of determination of liability, or within thirty days of the mailing of the notice of determination, whichever is the earlier, the determination of liability shall be deemed conclusive and final. Whenever any such notice of determination of liability becomes conclusive and final, the commissioner, upon giving at least twenty days' notice, using a method by which the mailing can be tracked or the delivery can be confirmed, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately

designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s) against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law for a civil judgment. A copy of the warrant shall be mailed within five days of its filing with the clerk to the person(s) mentioned in the warrant using a method by which the mailing can be tracked or the delivery can be confirmed.

(4) On request of any agency which administers an employment security law of another state, the United States, or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law, the commissioner may collect the amount of such benefits from the claimant to be refunded to the agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States, or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States, or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

(5) Any employer who is a party to a back pay award or settlement due to loss of wages shall, within thirty days of the award or settlement, report to the department the amount of the award or settlement, the name and social security number of the recipient of the award or settlement, and the period for which it is awarded. When an individual has been awarded or receives back pay, for benefit purposes the amount of the back pay shall constitute wages paid in the period for which it was awarded. For contribution purposes, the back pay award or settlement shall constitute wages paid in the period in which it was actually paid. The following requirements shall also apply:

(a) The employer shall reduce the amount of the back pay award or settlement by an amount determined by the department based upon the amount of unemployment benefits received by the recipient of the award or settlement during the period for which the back pay award or settlement was awarded;

(b) The employer shall pay to the unemployment compensation fund, in a manner specified by the commissioner, an amount equal to the amount of such reduction;

(c) The employer shall also pay to the department any taxes due for unemployment insurance purposes on the entire amount of the back pay award or settlement notwithstanding any reduction made pursuant to (a) of this subsection;

(d) If the employer fails to reduce the amount of the back pay award or settlement as required in (a) of this subsection, the department shall issue an overpayment assessment against the recipient of the award or settlement in the amount that the back pay award or settlement should have been reduced; and

(e) If the employer fails to pay to the department an amount equal to the reduction as required in (b) of this subsection, the department shall issue an assessment of liability against the employer which shall be collected pursuant to the procedures for collection of assessments provided herein and in RCW 50.24.110.

(6) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance. Interest shall accrue immediately

on overpayments assessed pursuant to RCW 50.20.070 and shall be imposed when the assessment becomes final. For any other overpayment, interest shall accrue when the individual has missed two or more of the individual's monthly payments either partially or in full.

(7) The department shall: (a) Conduct social security number cross-match audits or engage in other more effective activities that ensure that individuals are entitled to all amounts of benefits that they are paid; and (b) engage in other detection and recovery of overpayment and collection activities.

**NEW SECTION. Sec. 5.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

**NEW SECTION. Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 7.** This act takes effect October 20, 2013."

Correct the title.

Signed by Representatives Sells, Chair; Reykdal, Vice Chair; Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Green; Holy; Moeller; Ormsby and Short.

Passed to Committee on Rules for second reading.

April 2, 2013

**SSB 5452** Prime Sponsor, Committee on Human Services & Corrections: Concerning no-contact and protection orders for stalking and harassment. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** Stalking is a crime that affects 3.4 million people over the age of eighteen each year in the United States. Almost half of those victims experience at least one unwanted contact per week. Twenty-nine percent of stalking victims fear that the stalking will never stop. The prevalence of anxiety, insomnia, social dysfunction, and severe depression is much higher among stalking victims than the general population. Three in four stalking victims are stalked by someone they know, and at least thirty percent of stalking victims are stalked by a current or former intimate partner. For many of those victims, the domestic violence protection order is a tool they can access to help them stay safer. For those who have not had an intimate relationship with the person stalking them, there are few remedies for them under the law. Victims who do not report the crime still desire safety and protection from future interactions with the offender. Some cases in which the stalking is reported are not prosecuted. In these situations, the victim should be able to seek a civil remedy requiring that the offender stay away from the victim. It is the intent of the legislature that the stalking protection order created by this chapter be a remedy for victims who do not qualify for a domestic violence order of protection. Moreover, it is the intent of the legislature that courts specifically distinguish stalking conduct

covered by the stalking protection order from common acts of harassment or nuisance covered by antiharassment orders. Law enforcement agencies need to be able to rely on orders that distinguish stalking conduct from common acts of harassment or nuisance. Victims of stalking conduct deserve the same protection and access to the court system as victims of domestic violence and sexual assault, and this protection can be accomplished without infringing on constitutionally protected speech or activity. The legislature finds that preventing the issuance of conflicting orders is in the interest of both petitioners and respondents.

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

(1) "Minor" means a person who is under eighteen years of age.

(2) "Petitioner" means any named petitioner for the stalking protection order or any named victim of stalking conduct on whose behalf the petition is brought.

(3) "Stalking conduct" means any of the following:

(a) Any act of stalking as defined under RCW 9A.46.110;

(b) Any act of cyberstalking as defined under RCW 9.61.260;

(c) Any course of conduct involving repeated or continuing contacts, attempts to contact, monitoring, tracking, keeping under observation, or following of another that:

(i) Would cause a reasonable person to feel intimidated, frightened, or threatened and that actually causes such a feeling;

(ii) Serves no lawful purpose; and

(iii) The stalker knows or reasonably should know threatens, frightens, or intimidates the person, even if the stalker did not intend to intimidate, frighten, or threaten the person.

(4) "Stalking no-contact order" means a temporary order or a final order granted under this chapter against a person charged with or arrested for stalking, which includes a remedy authorized under section 16 of this act.

(5) "Stalking protection order" means an ex parte temporary order or a final order granted under this chapter, which includes a remedy authorized in section 10 of this act.

**NEW SECTION. Sec. 3.** There shall exist an action known as a petition for a stalking protection order.

(1) A petition for relief shall allege the existence of stalking conduct and shall be accompanied by an affidavit made under oath stating the specific reasons that have caused the petitioner to become reasonably fearful that the respondent intends to injure the petitioner or another person, or the petitioner's property or the property of another. The petition shall disclose the existence of any other litigation or of any other restraining, protection, or no-contact orders between the parties.

(2) A petition for relief shall be filed as a separate, stand-alone civil case and a petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(3) Forms and instructional brochures and the necessary number of certified copies shall be provided to the petitioner free of charge.

(4) A person is not required to post a bond to obtain relief in any proceeding under this section.

(5) If the petition states that disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, that address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notice of any motions.

**NEW SECTION. Sec. 4.** A petition for a stalking protection order may be filed by a person:

(1) Who does not qualify for a protection order under chapter 26.50 RCW and who is a victim of stalking conduct; or

(2) On behalf of any of the following persons who is a victim of stalking conduct and who does not qualify for a protection order under chapter 26.50 RCW:

(a) A minor child, where the petitioner is a parent, a legal custodian, or, where the respondent is not a parent, an adult with whom the child is currently residing; or

(b) A vulnerable adult as defined in RCW 74.34.020 and where the petitioner is an interested person as defined in RCW 74.34.020(10).

**NEW SECTION. Sec. 5.** (1) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of stalking conduct committed by the respondent.

(2) A minor sixteen years of age or older may seek relief under this chapter and is not required to seek relief through a guardian or next friend. This does not preclude a parent or legal custodian of a victim sixteen or seventeen years of age from seeking relief on behalf of the minor.

(3) The district courts shall have original jurisdiction and cognizance of any civil actions and proceedings brought under this chapter, except a district court shall transfer such actions and proceedings to the superior court when it is shown that (a) the petitioner, victim, or respondent to the petition is under eighteen years of age; (b) the action involves title or possession of real property; (c) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (d) the action would have the effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

(4) Municipal courts may exercise jurisdiction and cognizance of any civil actions and proceedings brought under this chapter by adoption of local court rule, except a municipal court shall transfer such actions and proceedings to the superior court when it is shown that (a) the petitioner, victim, or respondent to the petition is under eighteen years of age; (b) the action involves title or possession of real property; (c) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (d) the action would have the effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

(5) Superior courts shall have concurrent jurisdiction to receive transfer of stalking petitions in cases where a district or municipal court judge makes findings of fact and conclusions of law showing that meritorious reasons exist for the transfer. The jurisdiction of district and municipal courts is limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders provided for in section 12 of this act if the superior court is exercising jurisdiction over a proceeding under this chapter involving the parties.

(6) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter if such respondent is sixteen years of age or older.

(7) If a guardian ad litem is appointed for the petitioner or respondent, the petitioner shall not be required to pay any fee associated with such appointment.

(8) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid stalking conduct. In that case, the petitioner may bring an action in the county or municipality of the previous or the new residence or household.

**NEW SECTION. Sec. 6.** Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. The court may schedule a hearing by telephone, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further stalking behavior. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. Except as provided in section 15 of this act, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall require additional attempts at obtaining personal service or other service as permitted under section 15 of this act. The court may issue

an ex parte temporary stalking order pending the hearing as provided in section 12 of this act.

**NEW SECTION. Sec. 7.** Before granting an order under this chapter, the court may consult the judicial information system, if available, to determine criminal history or the pendency of other proceedings involving the parties.

**NEW SECTION. Sec. 8.** No fees for filing or service of process may be charged by a public agency to petitioners seeking relief under this chapter.

**NEW SECTION. Sec. 9.** Victim advocates shall be allowed to accompany the victim and confer with the victim, unless otherwise directed by the court. Court administrators shall allow advocates to assist victims of stalking conduct in the preparation of petitions for stalking protection orders. Advocates are not engaged in the unauthorized practice of law when providing assistance of the types specified in this section.

**NEW SECTION. Sec. 10.** (1)(a) If the court finds by a preponderance of the evidence that the petitioner has been a victim of stalking conduct by the respondent, the court shall issue a stalking protection order.

(b) The petitioner shall not be denied a stalking protection order because the petitioner or the respondent is a minor or because the petitioner did not report the stalking conduct to law enforcement. The court, when determining whether or not to issue a stalking protection order, may not require proof of the respondent's intentions regarding the acts alleged by the petitioner. Modification and extension of prior stalking protection orders shall be in accordance with this chapter.

(2) The court may provide relief as follows:

(a) Restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties regardless of whether those third parties know of the order;

(b) Exclude the respondent from the petitioner's residence, workplace, or school, or from the day care, workplace, or school of the petitioner's minor children;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) Prohibit the respondent from keeping the petitioner and/or the petitioner's minor children under surveillance, to include electronic surveillance;

(e) Order any other injunctive relief as necessary or appropriate for the protection of the petitioner, to include a mental health and/or chemical dependency evaluation; and

(f) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees.

(3) Unless otherwise stated in the order, when a person is petitioning on behalf of a minor child or vulnerable adult, the relief authorized in this section shall apply only for the protection of the victim, and not the petitioner.

(4) In cases where the petitioner and the respondent attend the same public or private elementary, middle, or high school, the court, when issuing a protection order and providing relief, shall consider, among the other facts of the case, the severity of the act, any continuing physical danger or emotional distress to the petitioner, and the expense difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the person restrained in the order not attend the public or approved private elementary, middle, or high school attended by the person protected by the order. In the event the court orders a transfer of the restrained person to another school, the parents or legal guardians of the person restrained in the order are responsible for transportation and other costs associated with the change of school by the person restrained in the order. The court shall send notice of the

restriction on attending the same school as the person protected by the order to the public or approved private school the person restrained by the order will attend and to the school the person protected by the order attends.

**NEW SECTION. Sec. 11.** For the purposes of issuing a stalking protection order, deciding what relief should be included in the order, and enforcing the order, RCW 9A.08.020 shall govern whether the respondent is legally accountable for the conduct of another person.

**NEW SECTION. Sec. 12.** (1) Where it appears from the petition and any additional evidence that the respondent has engaged in stalking conduct and that irreparable injury could result if an order is not issued immediately without prior notice, the court may grant an ex parte temporary order for protection, pending a full hearing and grant such injunctive relief as it deems proper, including the relief as specified under section 10 (2)(a) through (d) and (4) of this act.

(2) Irreparable injury under this section includes, but is not limited to, situations in which the respondent has recently threatened the petitioner with bodily injury or has engaged in acts of stalking conduct against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary stalking protection order shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication or mail. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or by mail is permitted. Unless the court has permitted service by publication or mail, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(5) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a statewide judicial information system by the clerk of the court within one judicial day after issuance.

(6) If the court declines to issue an ex parte temporary stalking protection order, the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte temporary order shall be filed with the court.

(7) A knowing violation of a court order issued under this section is punishable under RCW 26.50.110.

**NEW SECTION. Sec. 13.** (1) Except as otherwise provided in this section or section 16 of this act, a final stalking protection order shall be effective for a fixed period of time or be permanent.

(2) Any ex parte temporary or final stalking protection order may be renewed one or more times. The petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. If the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested renewal. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of stalking conduct against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the stalking protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in section 10 of this act.

(3) Any stalking protection order which would expire on a court holiday shall instead expire at the close of the next court business day.

(4) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a stalking protection order

undermines the purposes of this chapter. This section shall not be construed as encouraging that practice.

(5) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

**NEW SECTION. Sec. 14.** (1) Any stalking protection order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(2) A stalking protection order shall further state the following:

(a) The name of the petitioner that the court finds was the victim of stalking by the respondent;

(b) The date and time the stalking protection order was issued, whether it is an ex parte temporary or final order, and the duration of the order;

(c) The date, time, and place for any scheduled hearing for renewal of that stalking protection order or for another order of greater duration or scope;

(d) For each remedy in an ex parte temporary stalking protection order, the reason for entering that remedy without prior notice to the respondent or greater notice than was actually given;

(e) For ex parte temporary stalking protection orders, that the respondent may petition the court, to modify or terminate the order if he or she did not receive actual prior notice of the hearing and if the respondent alleges that he or she had a meritorious defense to the order or that the order or its remedy is not authorized by this chapter.

(3) A stalking protection order shall include the following notice, printed in conspicuous type: "A knowing violation of this stalking protection order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

**NEW SECTION. Sec. 15.** (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6), (7), or (8) of this section. If the respondent is a minor, the respondent's parent or legal custodian shall also be personally served.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer or private process server files an affidavit stating that the officer or private process server was

unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer or private process server made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the respondent is avoiding service;

(c) The server has deposited a copy of the petition, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address;

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome;

(e) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication; and

(f) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the . . . . . court of the state of Washington for  
the county of . . . . .

Petitioner

vs. No. . . . .

Respondent

The state of Washington to . . . . . (respondent):

You are hereby summoned to appear on the . . . . day of . . . . ., 20 . . . ., at . . . . a.m./m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of the stalking protection order act, chapter 7.-- RCW (the new chapter created in section 32 of this act), for a minimum of one year from the date you are required to appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order.) A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

Petitioner .....

(8) In circumstances justifying service by publication under subsection (7) of this section, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication and that the serving party is unable to afford the cost of service by publication,

the court may order that service be made by mail. Such service shall be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the order and other process to the party to be served at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first-class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(a) Proof of service under this section shall be consistent with court rules for civil proceedings.

(b) Service under this section may be used in the same manner and shall have the same jurisdictional effect as service by publication for purposes of this chapter. Service shall be deemed complete upon the mailing of two copies as prescribed in this section.

**NEW SECTION. Sec. 16.** (1)(a) When any person charged with or arrested for stalking as defined in RCW 9A.46.110 or any other stalking related offense under RCW 9A.46.060 is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, and the victim does not qualify for a domestic violence protection order under chapter 26.50 RCW, the court authorizing release may issue, by telephone, a stalking no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(b) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(c) The stalking no-contact order shall also be issued in writing as soon as possible.

(2)(a) At the time of arraignment or whenever a motion is brought to modify the conditions of the defendant's release, the court shall determine whether a stalking no-contact order shall be issued or extended. If a stalking no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring, including real-time global position satellite monitoring with victim notification. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring, including costs relating to real-time global position satellite monitoring with victim notification.

(b) A stalking no-contact order issued by the court in conjunction with criminal charges shall terminate if the defendant is acquitted or the charges are dismissed, unless the victim files an independent action for a stalking protection order. If the victim files an independent action for a civil stalking protection order, the order may be continued by the court until a full hearing is conducted pursuant to section 6 of this act.

(3)(a) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(b) A certified copy of the order shall be provided to the victim at no charge.

(4) If a stalking no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed.

(5) Whenever an order prohibiting contact is issued pursuant to subsection (2) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order for one year unless a different expiration date is specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

(6)(a) When a defendant is found guilty of stalking as defined in RCW 9A.46.110 or any other stalking related offense under RCW 9A.46.060 and a condition of the sentence restricts the defendant's ability to have contact with the victim, and the victim does not qualify for a domestic violence protection order under chapter 26.50 RCW, the condition shall be recorded as a stalking no-contact order.

(b) The written order entered as a condition of sentencing shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A final stalking no-contact order entered in conjunction with a criminal prosecution shall remain in effect for a period of five years from the date of entry.

(d) A certified copy of the order shall be provided to the victim at no charge.

(7) A knowing violation of a court order issued under subsection (1), (2), or (6) of this section is punishable under RCW 26.50.110.

(8) Whenever a stalking no-contact order is issued, modified, or terminated under subsection (1), (2), or (6) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order for one year unless a different expiration date is specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (2) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

**NEW SECTION. Sec. 17.** (1) In a proceeding in which a petition for a stalking protection order is sought under this chapter, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of a stalking protection order occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of a stalking protection order occurred outside this state and are part of an ongoing pattern of

stalking behavior that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of stalking behavior, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the Constitution of this state and the Constitution of the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

**NEW SECTION. Sec. 18.** (1) A copy of a stalking protection order or stalking no-contact order granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall immediately enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order shall remain in the computer for one year unless a different expiration date is specified on the order. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system. The law enforcement agency shall only expunge from the computer-based criminal intelligence information system orders that are expired, vacated, terminated, or superseded. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based criminal intelligence information system shall include notice to law enforcement whether the order was personally served, served by publication, or served by mail.

**NEW SECTION. Sec. 19.** (1) Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing stalking protection order.

(2) A respondent's motion to modify or terminate an existing stalking protection order must include a declaration setting forth facts supporting the requested order for termination or modification. The nonmoving parties to the proceeding may file opposing declarations. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the declarations. If the court finds that the respondent established adequate cause, the court shall set a date for hearing the respondent's motion.

(3) The court may not terminate or modify an existing stalking protection order unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances such that the respondent will not resume acts of stalking conduct against the petitioner or those persons protected by the protection order if the order is terminated or modified. The petitioner bears no

burden of proving that he or she has a current reasonable fear of harm by the respondent.

(4) A court may require the respondent to pay the petitioner for costs incurred in responding to a motion to terminate or modify a stalking protection order, including reasonable attorneys' fees.

(5) In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the computer-based criminal intelligence information system, or if the order is terminated, remove the order from the computer-based criminal intelligence information system.

**NEW SECTION. Sec. 20.** A new section is added to chapter 10.14 RCW to read as follows:

In each county, the superior court may appoint one or more attorneys to act as protection order commissioners pursuant to this chapter to exercise all powers and perform all duties of a court commissioner appointed pursuant to RCW 2.24.010 provided that such positions may not be created without prior consent of the county legislative authority. A person appointed as a protection order commissioner under this chapter may also be appointed to any other commissioner position authorized by law.

**NEW SECTION. Sec. 21.** A new section is added to chapter 10.14 RCW to read as follows:

The legislature respectfully requests that:

(1) By January 1, 2014, the administrative office of the courts shall develop a single master petition pattern form for all antiharassment and stalking protection orders issued under chapter 7.- RCW (the new chapter created in section 32 of this act) and this chapter. The master petition must prompt petitioners to disclose on the form whether the petitioner who is seeking an ex parte order has experienced stalking conduct as defined in section 2 of this act. An antiharassment order and stalking protection order issued under chapter 7.-- RCW (the new chapter created in section 32 of this act) and this chapter must substantially comply with the pattern form developed by the administrative office of the courts.

(2) The Washington state supreme court gender and justice commission, to the extent that it is able, and in consultation with Washington coalition of sexual assault programs, Washington state coalition against domestic violence, Washington association of prosecuting attorneys, Washington association of criminal defense lawyers, and Washington association of sheriffs and police chiefs, consider other potential solutions to reduce confusion about which type of protection order a petitioner should seek and provide any recommendations to the legislature by January 1, 2014.

**NEW SECTION. Sec. 22.** An ex parte temporary order issued under this chapter shall not be admissible as evidence in any subsequent civil action for damages arising from the conduct alleged in the petition or the order.

**NEW SECTION. Sec. 23.** Nothing in this chapter shall be construed as requiring criminal charges to be filed as a condition of a stalking protection order being issued.

**Sec. 24.** RCW 9.41.800 and 2002 c 302 s 704 are each amended to read as follows:

(1) Any court when entering an order authorized under chapter 7.-RCW (the new chapter created in section 32 of this act), RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 shall, upon a showing by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or previously committed any offense that makes him or her ineligible to possess a firearm under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;

(b) Require the party to surrender any concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(2) Any court when entering an order authorized under chapter 7.-RCW (the new chapter created in section 32 of this act), RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 may, upon a showing by a preponderance of the evidence but not by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or previously committed any offense that makes him or her ineligible to possess a pistol under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;

(b) Require the party to surrender a concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(3) The court may order temporary surrender of a firearm or other dangerous weapon without notice to the other party if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury could result if an order is not issued until the time for response has elapsed.

(4) In addition to the provisions of subsections (1), (2), and (3) of this section, the court may enter an order requiring a party to comply with the provisions in subsection (1) of this section if it finds that the possession of a firearm or other dangerous weapon by any party presents a serious and imminent threat to public health or safety, or to the health or safety of any individual.

(5) The requirements of subsections (1), (2), and (4) of this section may be for a period of time less than the duration of the order.

(6) The court may require the party to surrender any firearm or other dangerous weapon in his or her immediate possession or control or subject to his or her immediate possession or control to the sheriff of the county having jurisdiction of the proceeding, the chief of police of the municipality having jurisdiction, or to the restrained or enjoined party's counsel or to any person designated by the court.

**Sec. 25.** RCW 9.94A.535 and 2011 c 87 s 1 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider



The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose.

(j) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury -Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

(bb) The current offense involved paying to view, over the internet in violation of RCW 9.68A.075, depictions of a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(cc) The offense was intentionally committed because the defendant perceived the victim to be homeless, as defined in RCW 9.94A.030.

**Sec. 26.** RCW 9A.46.040 and 2012 c 223 s 1 are each amended to read as follows:

(1) Because of the likelihood of repeated harassment directed at those who have been victims of harassment in the past, when any defendant charged with a crime involving harassment is released from custody before trial on bail or personal recognizance, the court authorizing the release may issue an order pursuant to this chapter and require that the defendant:

(a) Stay away from the home, school, business, or place of employment of the victim or victims of the alleged offense or other location, as shall be specifically named by the court in the order;

(b) Refrain from contacting, intimidating, threatening, or otherwise interfering with the victim or victims of the alleged offense and such other persons, including but not limited to members of the family or household of the victim, as shall be specifically named by the court in the order.

(2) Willful violation of a court order issued under this section or an equivalent local ordinance is a gross misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 9A.46 RCW. A certified copy of the order shall be provided to the victim by the clerk of the court.

(3) If the defendant is charged with the crime of stalking or any other stalking related offense under RCW 9A.46.060, and the court issues an order protecting the victim, the court shall issue a stalking no-contact order pursuant to chapter 7.-- RCW (the new chapter created in section 32 of this act).

**NEW SECTION. Sec. 27.** A new section is added to chapter 9A.46 RCW to read as follows:

(1) A defendant arrested for stalking as defined by RCW 9A.46.110 shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) At the time of appearance provided in subsection (1) of this section the court shall determine the necessity of imposing a stalking no-contact order under chapter 7.-- RCW (the new chapter created in section 32 of this act).

(3) Appearances required pursuant to this section are mandatory and cannot be waived.

(4) The stalking no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outlined in chapter 7.-- RCW (the new chapter created in section 32 of this act).

**Sec. 28.** RCW 9A.46.110 and 2007 c 201 s 1 are each amended to read as follows:

(1) A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

(a) He or she intentionally and repeatedly harasses or repeatedly follows another person; and

(b) The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and

(c) The stalker either:

(i) Intends to frighten, intimidate, or harass the person; or

(ii) Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(2)(a) It is not a defense to the crime of stalking under subsection (1)(c)(i) of this section that the stalker was not given actual notice that the person did not want the stalker to contact or follow the person; and

(b) It is not a defense to the crime of stalking under subsection (1)(c)(ii) of this section that the stalker did not intend to frighten, intimidate, or harass the person.

(3) It shall be a defense to the crime of stalking that the defendant is a licensed private investigator acting within the capacity of his or her license as provided by chapter 18.165 RCW.

(4) Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person. "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

(5)(a) Except as provided in (b) of this subsection, a person who stalks another person is guilty of a gross misdemeanor.

(b) A person who stalks another is guilty of a class ((€)) B felony if any of the following applies: (i) The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a protective order; (ii) the stalking violates any protective order protecting the person being stalked; (iii) the stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person; (iv) the stalker was armed with a deadly weapon, as defined in RCW ((9.94A.602)) 9.94A.825, while stalking the person; (v)(A) the stalker's victim is or was a law enforcement officer; judge; juror; attorney; victim advocate; legislator; community corrections' officer; an employee, contract staff person, or volunteer of a correctional agency; court employee, court clerk, or courthouse facilitator; or an employee of the child protective, child welfare, or adult protective services division within the department of social and health services; and (B) the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or (vi) the stalker's victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(6) As used in this section:

(a) "Correctional agency" means a person working for the department of natural resources in a correctional setting or any state, county, or municipally operated agency with the authority to direct the release of a person serving a sentence or term of confinement and includes but is not limited to the department of corrections, the indeterminate sentence review board, and the department of social and health services.

(b) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

(c) "Harasses" means unlawful harassment as defined in RCW 10.14.020.

(d) "Protective order" means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(e) "Repeatedly" means on two or more separate occasions.

**Sec. 29.** RCW 10.14.070 and 2005 c 144 s 1 are each amended to read as follows:

Upon receipt of the petition alleging a prima facie case of harassment, other than a petition alleging a sex offense as defined in chapter 9A.44 RCW or a petition for a stalking protection order under chapter 7.-- RCW (the new chapter created in section 32 of this act), the court shall order a hearing which shall be held not later than fourteen days from the date of the order. If the petition alleges a sex offense as defined in chapter 9A.44 RCW, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. Except as provided in RCW 10.14.085, personal service shall be made upon the respondent not less than five court days before the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by RCW 10.14.085. If the court permits service by publication, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 10.14.080 and 10.14.085.

**Sec. 30.** RCW 26.50.110 and 2009 c 439 s 3 and 2009 c 288 s 3 are each reenacted and amended to read as follows:

(1)(a) Whenever an order is granted under this chapter, chapter 7.-- (the new chapter created in section 32 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

(v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.-- (the new chapter created in section 32 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.-- (the new chapter created in section 32 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.-- (the new chapter created in section 32 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.-- (the new chapter created in section 32 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The

previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.-- (the new chapter created in section 32 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

**Sec. 31.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

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

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

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.-- (the new chapter created in section 32 of this act), 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

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

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

arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

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

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

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

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

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

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

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

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

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

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

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

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

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

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

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

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (8) of this section if the police officer acts in good faith and without malice.

**NEW SECTION. Sec. 32.** Sections 1 through 19, 22, and 23 of this act constitute a new chapter in Title 7 RCW."

Correct the title.

Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013

SB 5476 Prime Sponsor, Senator Hewitt: Clarifying the employment status of independent contractors in the news business. Reported by Committee on Labor & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Sells, Chair; Reykdal, Vice Chair; Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Green; Holy; Moeller; Ormsby and Short.

Passed to Committee on Rules for second reading.

April 2, 2013

SB 5510 Prime Sponsor, Senator Becker: Concerning the abuse of vulnerable adults. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.34.020 and 2012 c 10 s 62 are each amended to read as follows:

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

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(c) "Mental abuse" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(d) "Exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(3) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(4) "Department" means the department of social and health services.

(5) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, assisted living facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department.

(6) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

(a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;

(b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

(c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

(7) "Financial institution" has the same meaning as in RCW 30.22.040 and 30.22.041. For purposes of this chapter only, "financial institution" also means a "broker-dealer" or "investment adviser" as defined in RCW 21.20.005.

(8) "Incapacitated person" means a person who is at a significant risk of personal or financial harm under RCW 11.88.010(1) (a), (b), (c), or (d).

(9) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

(10) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

(11) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

(12) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a

vulnerable adult; or (b) an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

(13) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

(14) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

(15) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

(16) "Social worker" means:

(a) A social worker as defined in RCW 18.320.010(2); or

(b) Anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of vulnerable adults, or providing social services to vulnerable adults, whether in an individual capacity or as an employee or agent of any public or private organization or institution.

(17) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Found incapacitated under chapter 11.88 RCW; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider; or

(g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

**Sec. 2.** RCW 74.34.035 and 2010 c 133 s 4 are each amended to read as follows:

(1) When there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, mandated reporters shall immediately report to the department.

(2) When there is reason to suspect that sexual assault has occurred, mandated reporters shall immediately report to the appropriate law enforcement agency and to the department.

(3) When there is reason to suspect that physical assault has occurred or there is reasonable cause to believe that an act has caused fear of imminent harm:

(a) Mandated reporters shall immediately report to the department; and

(b) Mandated reporters shall immediately report to the appropriate law enforcement agency, except as provided in subsection (4) of this section.

(4) A mandated reporter is not required to report to a law enforcement agency, unless requested by the injured vulnerable adult or his or her legal representative or family member, an incident of

physical assault between vulnerable adults that causes minor bodily injury and does not require more than basic first aid, unless:

(a) The injury appears on the back, face, head, neck, chest, breasts, groin, inner thigh, buttock, genital, or anal area;

(b) There is a fracture;

(c) There is a pattern of physical assault between the same vulnerable adults or involving the same vulnerable adults; or

(d) There is an attempt to choke a vulnerable adult.

(5) When there is reason to suspect that the death of a vulnerable adult was caused by abuse, neglect, or abandonment by another person, mandated reporters shall, pursuant to RCW 68.50.020, report the death to the medical examiner or coroner having jurisdiction, as well as the department and local law enforcement, in the most expeditious manner possible. A mandated reporter is not relieved from the reporting requirement provisions of this subsection by the existence of a previously signed death certificate. If abuse, neglect, or abandonment caused or contributed to the death of a vulnerable adult, the death is a death caused by unnatural or unlawful means, and the body shall be the jurisdiction of the coroner or medical examiner pursuant to RCW 68.50.010.

(6) Permissive reporters may report to the department or a law enforcement agency when there is reasonable cause to believe that a vulnerable adult is being or has been abandoned, abused, financially exploited, or neglected.

(7) No facility, as defined by this chapter, agency licensed or required to be licensed under chapter 70.127 RCW, or facility or agency under contract with the department to provide care for vulnerable adults may develop policies or procedures that interfere with the reporting requirements of this chapter.

(8) Each report, oral or written, must contain as much as possible of the following information:

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

(b) The name and address of the vulnerable adult and the name of the facility or agency providing care for the vulnerable adult;

(c) The name and address of the legal guardian or alternate decision maker;

(d) The nature and extent of the abandonment, abuse, financial exploitation, neglect, or self-neglect;

(e) Any history of previous abandonment, abuse, financial exploitation, neglect, or self-neglect;

(f) The identity of the alleged perpetrator, if known; and

(g) Other information that may be helpful in establishing the extent of abandonment, abuse, financial exploitation, neglect, or the cause of death of the deceased vulnerable adult.

(9) Unless there is a judicial proceeding or the person consents, the identity of the person making the report under this section is confidential.

(10) In conducting an investigation of abandonment, abuse, financial exploitation, self-neglect, or neglect, the department or law enforcement, upon request, must have access to all relevant records related to the vulnerable adult that are in the possession of mandated reporters and their employees, unless otherwise prohibited by law. Records maintained under RCW 4.24.250, 18.20.390, 43.70.510, 70.41.200, 70.230.080, and 74.42.640 shall not be subject to the requirements of this subsection. Providing access to records relevant to an investigation by the department or law enforcement under this provision may not be deemed a violation of any confidential communication privilege.

**Sec. 3.** RCW 74.34.067 and 2011 c 170 s 2 are each amended to read as follows:

(1) Where appropriate, an investigation by the department may include a private interview with the vulnerable adult regarding the alleged abandonment, abuse, financial exploitation, neglect, or self-neglect.

(2) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to

interview the vulnerable adult or adults harmed, and, consistent with the protection of the vulnerable adult shall interview facility staff, any available independent sources of relevant information, including if appropriate the family members of the vulnerable adult.

(3) The department may conduct ongoing case planning and consultation with: (a) Those persons or agencies required to report under this chapter or submit a report under this chapter; (b) consultants designated by the department; and (c) designated representatives of Washington Indian tribes if client information exchanged is pertinent to cases under investigation or the provision of protective services. Information considered privileged by statute and not directly related to reports required by this chapter must not be divulged without a valid written waiver of the privilege.

(4) The department shall prepare and keep on file a report of each investigation conducted by the department for a period of time in accordance with policies established by the department.

(5) If the department has reason to believe that the vulnerable adult has suffered from abandonment, abuse, financial exploitation, neglect, or self-neglect, and lacks the ability or capacity to consent, and needs the protection of a guardian, the department may bring a guardianship action under chapter 11.88 RCW.

(6) For purposes consistent with this chapter, the department, the certified professional guardian board, and the office of public guardianship may share information contained in reports and investigations of the abuse, abandonment, neglect, self-neglect, and financial exploitation of vulnerable adults. This information may be used solely for (a) recruiting or appointing appropriate guardians and (b) monitoring, or when appropriate, disciplining certified professional or public guardians. Reports of abuse, abandonment, neglect, self-neglect, and financial exploitation are confidential under RCW 74.34.095 and other laws, and secondary disclosure of information shared under this section is prohibited.

(7) When the investigation is completed and the department determines that an incident of abandonment, abuse, financial exploitation, neglect, or self-neglect has occurred, the department shall inform the vulnerable adult of their right to refuse protective services, and ensure that, if necessary, appropriate protective services are provided to the vulnerable adult, with the consent of the vulnerable adult. The vulnerable adult has the right to withdraw or refuse protective services.

~~((7))~~ (8) The department's adult protective services division may enter into agreements with federally recognized tribes to investigate reports of abandonment, abuse, financial exploitation, neglect, or self-neglect of vulnerable adults on property over which a federally recognized tribe has exclusive jurisdiction. If the department has information that abandonment, abuse, financial exploitation, or neglect is criminal or is placing a vulnerable adult on tribal property at potential risk of personal or financial harm, the department may notify tribal law enforcement or another tribal representative specified by the tribe. Upon receipt of the notification, the tribe may assume jurisdiction of the matter. Neither the department nor its employees may participate in the investigation after the tribe assumes jurisdiction. The department, its officers, and its employees are not liable for any action or inaction of the tribe or for any harm to the alleged victim, the person against whom the allegations were made, or other parties that occurs after the tribe assumes jurisdiction. Nothing in this section limits the department's jurisdiction and authority over facilities or entities that the department licenses or certifies under federal or state law.

~~((8))~~ (9) The department may photograph a vulnerable adult or their environment for the purpose of providing documentary evidence of the physical condition of the vulnerable adult or his or her environment. When photographing the vulnerable adult, the department shall obtain permission from the vulnerable adult or his or her legal representative unless immediate photographing is necessary to preserve evidence. However, if the legal representative is alleged

to have abused, neglected, abandoned, or exploited the vulnerable adult, consent from the legal representative is not necessary. No such consent is necessary when photographing the physical environment.

~~((9))~~ (10) When the investigation is complete and the department determines that the incident of abandonment, abuse, financial exploitation, or neglect has occurred, the department shall inform the facility in which the incident occurred, consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and complainants."

Correct the title.

Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Orwall and Roberts.

MINORITY recommendation: Do not pass. Signed by Representatives Nealey and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013

SSB 5556

Prime Sponsor, Committee on Law & Justice:  
Concerning missing endangered persons.  
Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.60.010 and 2009 c 20 s 1 are each amended to read as follows:

(1) The Washington state patrol shall establish a missing children and endangered person clearinghouse which shall include the maintenance and operation of a toll-free(~~(, twenty four hour)~~) telephone hotline. The clearinghouse shall distribute information to local law enforcement agencies, school districts, the department of social and health services, and the general public regarding missing children and endangered persons. The information shall include pictures, bulletins, training sessions, reports, and biographical materials that will assist in local law enforcement efforts to locate missing children and endangered persons. The state patrol shall also maintain a regularly updated computerized link with national and other statewide missing person systems or clearinghouses, and within existing resources, shall develop and implement a plan, commonly known as an "amber alert plan" or an "endangered missing person advisory plan," for voluntary cooperation between local, state, tribal, and other law enforcement agencies, state government agencies, radio and television stations, ~~((and))~~ cable and satellite systems, and social media pages and sites to enhance the public's ability to assist in recovering abducted children and missing endangered persons consistent with the state endangered missing person advisory plan.

(2) For the purposes of this chapter:

(a) "Child" or "children(,)" ((as used in this chapter.)) means an individual under eighteen years of age.

(b) "Missing endangered person" means a person with a developmental disability as defined in RCW 71A.10.020(4) or a vulnerable adult as defined in RCW 74.34.020(17), believed to be in danger because of age, health, mental or physical disability, in combination with environmental or weather conditions, or is believed to be unable to return to safety without assistance.

Sec. 2. RCW 13.60.020 and 1985 c 443 s 23 are each amended to read as follows:

Local law enforcement agencies shall file an official missing person report and enter biographical information into the state missing person computerized network within ~~((twelve))~~ six hours

after notification of a missing child or endangered person is received under RCW 13.32A.050 (1)(a), ~~((3))~~ (c), or ~~((4))~~ (d), or an endangered missing person received pursuant to the state endangered missing person advisory plan. The patrol shall collect such information as will enable it to retrieve immediately the following information about a missing child or endangered person: Name, date of birth, social security number, fingerprint classification, relevant physical descriptions, and known associates and locations. Access to the preceding information shall be available to appropriate law enforcement agencies, and to parents and legal guardians, when appropriate."  
Correct the title.

Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Moscoso; Pettigrew; Ross and Takko.

Passed to Committee on Rules for second reading.

April 2, 2013

ESSB 5577 Prime Sponsor, Committee on Human Services & Corrections: Protecting public employees who act ethically and legally. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Representatives Hunt, Chair; Bergquist, Vice Chair; Buys, Ranking Minority Member; Alexander; Carlyle; Fitzgibbon; Manweiler; Orwall and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Taylor, Assistant Ranking Minority Member and Kristiansen.

Passed to Committee on Rules for second reading.

April 1, 2013

SB 5627 Prime Sponsor, Senator Eide: Concerning the taxation of commuter air carriers. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Fitzgibbon; Hansen; Lytton; Pollet; Reykdal and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Vick and Wilcox.

Passed to Committee on Rules for second reading.

April 2, 2013

ESSB 5669 Prime Sponsor, Committee on Law & Justice: Concerning trafficking. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Moscoso; Pettigrew; Ross and Takko.

Passed to Committee on Rules for second reading.

April 2, 2013

E2SSB 5680 Prime Sponsor, Committee on Ways & Means: Promoting economic development by providing information to businesses. Reported by Committee on Technology & Economic Development

MAJORITY recommendation: Do pass. Signed by Representatives Morris, Chair; Habib, Vice Chair; Smith, Ranking Minority Member; Crouse, Assistant Ranking Minority Member; Dahlquist; Hudgins; Kochmar; Magendanz; Maxwell; Morrell; Stonier; Tarleton; Vick; Walsh; Wylie and Zeiger.

Passed to Committee on Rules for second reading.

April 1, 2013

SSB 5697 Prime Sponsor, Committee on Trade & Economic Development: Reducing the frequency of local sales and use tax changes. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.14.055 and 2003 c 168 s 206 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, a local sales and use tax change ~~((shall))~~ may take effect (a) no sooner than seventy-five days after the department receives notice of the change and (b) only on the first day of January, April, ~~or July~~ ~~(or October)~~.

(2) In the case of a local sales and use tax that is a credit against the state sales tax or use tax, a local sales and use tax change ~~((shall))~~ may take effect (a) no sooner than thirty days after the department receives notice of the change and (b) only on the first day of a month.

(3)(a) A local sales and use tax rate increase imposed on services applies to the first billing period starting on or after the effective date of the increase.

(b) A local sales and use tax rate decrease imposed on services applies to bills rendered on or after the effective date of the decrease.

(c) For the purposes of this subsection (3), "services" means retail services such as installing and constructing and retail services such as telecommunications, but does not include services such as tattooing.

(4) For the purposes of this section, "local sales and use tax change" means enactment or revision of local sales and use taxes under this chapter or any other statute, including changes resulting from referendum or annexation."

Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Fitzgibbon; Hansen; Lytton; Pollet; Reykdal; Springer; Vick and Wilcox.

Passed to Committee on Rules for second reading.

April 1, 2013

SSB 5705 Prime Sponsor, Committee on Governmental Operations: Concerning amounts received by taxing districts from property tax refunds and abatements. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey,



Ranking Minority Member; Fitzgibbon; Lytton; Pollet; Reykdal; Springer and Wilcox.

MINORITY recommendation: Without recommendation. Signed by Representatives Orcutt, Assistant Ranking Minority Member; Condotta and Vick.

Passed to Committee on Rules for second reading.

April 1, 2013

SB 5715 Prime Sponsor, Senator Hill: Addressing the evasion of taxes by the use of certain electronic means. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Fitzgibbon; Hansen; Lytton; Pollet; Reykdal; Springer; Vick and Wilcox.

Passed to Committee on Rules for second reading.

April 2, 2013

SSB 5718 Prime Sponsor, Committee on Trade & Economic Development: Providing monitoring of the development of a one-stop portal for Washington businesses. Reported by Committee on Technology & Economic Development

MAJORITY recommendation: Do pass. Signed by Representatives Morris, Chair; Habib, Vice Chair; Smith, Ranking Minority Member; Crouse, Assistant Ranking Minority Member; Dahlquist; Hudgins; Kochmar; Magendanz; Maxwell; Morrell; Stonier; Tarleton; Vick; Walsh; Wylie and Zeiger.

Referred to Committee on Appropriations.

April 2, 2013

SB 5784 Prime Sponsor, Senator Holmquist Newbry: Concerning the joint center for aerospace technology innovation. Reported by Committee on Technology & Economic Development

MAJORITY recommendation: Do pass. Signed by Representatives Morris, Chair; Habib, Vice Chair; Smith, Ranking Minority Member; Crouse, Assistant Ranking Minority Member; Dahlquist; Hudgins; Kochmar; Magendanz; Maxwell; Morrell; Stonier; Tarleton; Vick; Walsh; Wylie and Zeiger.

Referred to Committee on Appropriations.

April 2, 2013

2SSB 5794 Prime Sponsor, Committee on Ways & Means: Concerning alternative learning experience courses. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. 2011 1st sp.s. c 34 s 1 (uncodified) is amended to read as follows:

(1) Under Article IX of the Washington state Constitution, all children are entitled to an opportunity to receive a basic education.

Although the state must assure that students in public schools have opportunities to participate in the instructional program of basic education, there is no obligation for either the state or school districts to provide that instruction using a particular delivery method or through a particular program.

(2) The legislature finds ample evidence of the need to examine and reconsider policies under which alternative learning that occurs outside the classroom using an individual student learning plan may be considered equivalent to full-time attendance in school, including for funding purposes. Previous legislative studies have raised questions about financial practices and accountability in alternative learning experience ~~((programs))~~ courses. Since 2005, there has been significant enrollment growth in alternative learning experience online ~~((programs))~~ courses, with evidence of unexpected financial impact when large numbers of nonresident students enroll in ~~((programs))~~ courses. Based on this evidence, there is a rational basis on which to conclude that there are different costs associated with providing ~~((a program))~~ courses not primarily based on full-time, daily contact between teachers and students and not primarily occurring on-site in a classroom.

(3) For these reasons, the legislature intends to allow for continuing review and revision of the way in which state funding allocations are used to support alternative learning experience ~~((programs))~~ courses.

Sec. 2. RCW 28A.150.325 and 2011 1st sp.s. c 34 s 2 are each amended to read as follows:

(1) ~~((For purposes of this chapter,))~~ The definitions in this subsection apply throughout this chapter unless the context clearly requires otherwise.

(a) "Alternative learning experience ~~((program))~~ course" means a course ~~((or set of courses))~~ that is a delivery method for the program of basic education and is:

~~((a))~~ (i) Provided in whole or in part independently from a regular classroom setting or schedule, but may include some components of direct instruction;

~~((b))~~ (ii) Supervised, instructed, monitored, assessed, evaluated, and documented by a certificated teacher employed by the school district or under contract as permitted by applicable rules; and

~~((c))~~ (iii) Provided in accordance with a written student learning plan that is implemented pursuant to the school district's policy and rules adopted by the superintendent of public instruction for alternative learning experiences.

(b) "In-person" means face-to-face instructional contact in a physical classroom environment.

(c) "Instructional contact time" means instructional time with a certificated teacher. Instructional contact time must be for the purposes of actual instruction, review of assignments, testing, evaluation of student progress, or other learning activities or requirements identified in the student's written student learning plan. Instructional contact time must be related to an alternative learning experience course identified in the student's written student learning plan. Instructional contact time may occur in a group setting between the teacher and multiple students and may be delivered either in-person or remotely using technology.

(d) "Online course" has the same meaning as provided in RCW 28A.250.010.

(e) "Remote course" means an alternative learning experience course that is not an online course where the student has in-person instructional contact time for less than twenty percent of the total weekly time for the course.

(f) "Site-based course" means an alternative learning experience course where the student has in-person instructional contact time for at least twenty percent of the total weekly time for the course.

(g) "Total weekly time" means the estimated average hours per school week the student will engage in learning activities to meet the requirements of the written student learning plan.

(2) ~~(The broad categories of alternative learning experience programs include, but are not limited to:~~  
~~(a) Online programs as defined in RCW 28A.150.262;~~  
~~(b) Parent partnership programs that include significant participation and partnership by parents and families in the design and implementation of a student's learning experience; and~~  
~~(c) Contract based learning programs))~~ School districts may claim state funding under section 4 of this act, to the extent otherwise allowed by state law including the provisions of RCW 28A.250.060, for students enrolled in remote, site-based, or online alternative learning experience courses. High school courses must meet district or state graduation requirements and be offered for high school credit.

(3) School districts that offer alternative learning experience ~~((programs))~~ courses may not provide any compensation, reimbursement, gift, reward, or gratuity to any parents, guardians, or students for participation in the courses. School district employees are prohibited from receiving any compensation or payment as an incentive to increase student enrollment of out-of-district students in ~~((an))~~ alternative learning experience ((program)) courses. This prohibition includes, but is not limited to, providing funds to parents, guardians, or students for the purchase of educational materials, supplies, experiences, services, or technological equipment. A district may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience ~~((programs))~~ courses if the purchase is consistent with the district's approved curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's regular instructional program. Items so purchased remain the property of the school district upon program completion. School districts may not purchase or contract for instructional or cocurricular experiences and services that are included in an alternative learning experience written student learning plan, including but not limited to lessons, trips, and other activities, unless substantially similar experiences and services are available to students enrolled in the district's regular instructional program. School districts that purchase or contract for such experiences and services for students enrolled in an alternative learning experience ~~((program))~~ course must submit an annual report to the office of the superintendent of public instruction detailing the costs and purposes of the expenditures. These requirements extend to contracted providers of alternative learning experience ~~((programs))~~ courses, and each district shall be responsible for monitoring the compliance of its providers with these requirements. However, nothing in this ~~((section))~~ subsection shall prohibit school districts from contracting with school district employees to provide services or experiences to students, or from contracting with online providers approved by the office of the superintendent of public instruction pursuant to chapter 28A.250 RCW.

(4) ~~(Part-time enrollment in alternative learning experiences is subject to the provisions of RCW 28A.150.350.~~

~~(5) The superintendent of public instruction shall adopt rules defining minimum requirements and accountability for alternative learning experience programs))~~ Each school district offering or contracting to offer alternative learning experience courses must:

(a) Report annually to the superintendent of public instruction regarding the course types and offerings, and number of students participating in each; and

(b) Document the district of residence for each student enrolled in an alternative learning experience course.

(5) A school district offering or contracting to offer an alternative learning experience course to a nonresident student must inform the resident school district if the student drops out of the course or is otherwise no longer enrolled.

(6) School districts must assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other

annual assessments required by the school district. Part-time students must also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules must address how students who reside outside the geographic service area of the school district are to be assessed.

(7) Beginning with the 2013-14 school year, school districts must designate alternative learning experience courses as such when reporting course information to the office of the superintendent of public instruction under RCW 28A.300.500.

(8) The superintendent of public instruction shall adopt rules necessary to implement this section.

**Sec. 3.** RCW 28A.150.262 and 2011 1st sp.s. c 34 s 3 are each amended to read as follows:

Under RCW 28A.150.260, the superintendent of public instruction shall revise the definition of a full-time equivalent student to include students who receive instruction through alternative learning experience online ~~((programs))~~ courses. As used in this section ~~((and RCW 28A.150.325)),~~ an "alternative learning experience online ~~((program))~~ course" is ~~((a set of online courses or))~~ an online ~~((school program))~~ course as defined in RCW 28A.250.010 that is delivered to students in whole or in part independently from a regular classroom schedule. Beginning in the 2013-14 school year, alternative learning experience online ~~((programs))~~ courses must be offered by an online provider approved by the superintendent of public instruction under RCW 28A.250.020 to meet the definition in this section. The rules shall include but not be limited to the following:

(1) Defining a full-time equivalent student under RCW 28A.150.260 or part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours of learning activity as identified in the student's learning plan, as long as the student is found, through monthly evaluation, to be making satisfactory progress~~((;)).~~ The rules shall ((require districts providing programs under this section to nonresident students to)) establish procedures that address((-at a minimum, the coordination of student counting)) how the counting of students must be coordinated by resident and nonresident districts for state funding so that no student is counted for more than one full-time equivalent in the aggregate;

(2) Requiring the board of directors of a school district offering, or contracting under RCW 28A.150.305 to offer, an alternative learning experience online ~~((program))~~ course to adopt and annually review written policies for each program and program provider and to receive an annual report on its ~~((digital))~~ alternative learning experience online ~~((programs))~~ courses from its staff;

(3) Requiring each school district offering or contracting to offer an alternative learning experience online ~~((program))~~ course to report annually to the superintendent of public instruction on the types of ~~((programs and))~~ course offerings, and number of students participating;

(4) Requiring completion of a ~~((program))~~ self-evaluation;

(5) Requiring documentation of the district of the student's physical residence;

(6) Requiring that instruction, supervision, monitoring, assessment, and evaluation of the alternative learning experience online ~~((program))~~ course be provided by a certificated teacher;

(7) Requiring each school district offering courses ~~((or programs))~~ to identify the ratio of certificated instructional staff to full-time equivalent students enrolled in such courses ~~((or programs))~~, and to include a description of their ratio as part of the reports required under subsections (2) and (3) of this section;

(8) Requiring reliable methods to verify a student is doing his or her own work; the methods may include proctored examinations or projects, including the use of web cams or other technologies.

"Proctored" means directly monitored by an adult authorized by the school district;

(9) Requiring, for each student receiving instruction in an alternative learning experience online (~~(program)~~ course, a learning plan that includes a description of course objectives and information on the requirements a student must meet to successfully complete the (~~(program or courses)~~ course. The rules shall allow course syllabi and other additional information to be used to meet the requirement for a learning plan;

(10) Requiring that the district assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules shall address how students who reside outside the geographic service area of the school district are to be assessed;

(11) Requiring that each student enrolled in the (~~(program)~~ course have direct personal contact with a certificated teacher at least weekly until the student completes the course objectives or the requirements in the learning plan. Direct personal contact is for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication. The superintendent may not adopt a rule specifying a minimum duration of weekly personal contact;

(12) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online (~~(learning programs)~~ courses to receive accreditation through the Northwest accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the (~~(Washington coalition for)~~ online learning advisory committee;

(13) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online (~~(learning)~~ courses to provide information to students and parents on whether or not the courses (~~(or programs)~~): Cover one or more of the school district's learning goals or of the state's essential academic learning requirements or whether they permit the student to meet one or more of the state's or district's graduation requirements; and

(14) Requiring that a school district that provides one or more alternative learning experience online courses to a student provide the parent or guardian of the student, prior to the student's enrollment, with a description of any difference between home-based education as described in chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

**NEW SECTION. Sec. 4.** The superintendent of public instruction shall separately calculate and allocate moneys appropriated under RCW 28A.150.260 to school districts for each full-time equivalent student enrolled in an alternative learning experience course. The calculation shall be based on the estimated statewide annual average allocation per full-time equivalent student in grades nine through twelve in general education, excluding small high school enhancements, and including applicable rules and provisions of the omnibus appropriations act.

**Sec. 5.** RCW 28A.250.010 and 2011 1st sp.s. c 34 s 5 are each amended to read as follows:

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

(1)(a) "Multidistrict online provider" means:

(i) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(ii) A private or nonprofit organization that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(iii) Except as provided in (b) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(b) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225. "Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented by two or more school districts or an educational service district through an interdistrict cooperative program agreement that addresses, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2)(a) "Online course" means a course where:

(i) More than half of the course content is delivered electronically using the internet or other computer-based methods; (~~and~~)

(ii) More than half of the teaching is conducted from a remote location through an online course learning management system or other online or electronic tools; and

(iii) The student's primary instructional interaction is with a certificated teacher. Instructional interaction between the teacher and the student includes, but is not limited to, direct instruction, review of assignments, assessment, testing, progress monitoring, and educational facilitation.

(b) "Online school program" means a school program that:

(i) Offers courses or grade-level coursework that is delivered primarily electronically using the internet or other computer-based methods;

(ii) Offers courses or grade-level coursework that is taught by a teacher primarily from a remote location using online or other electronic tools. Students enrolled in an online program may have access to the teacher synchronously, asynchronously, or both;

(iii) Offers a sequential set of online courses or grade-level coursework that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students; and

(iv) Has an online component of the program with online lessons and tools for student and data management.

(c) An online course or online school program may be delivered to students at school as part of the regularly scheduled school day. An online course or online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such courses or programs must comply with RCW 28A.150.262 (as recodified by this act) to qualify for state basic education funding.

(3) "Online provider" means any provider of an online course or program, including multidistrict online providers, all school district online learning programs, and all regional online learning programs.

**Sec. 6.** RCW 28A.250.020 and 2011 1st sp.s. c 34 s 6 are each amended to read as follows:

(1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving online providers; a process for monitoring and if necessary rescinding the approval of courses or

programs offered by an online provider; and an appeals process. The criteria and processes for multidistrict online providers shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation, or are candidates for accreditation, through the Northwest accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction (~~after consultation with the Washington coalition for online learning~~). In addition to other criteria, the approval criteria shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing online providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding whether credit meets the school district's graduation requirements shall remain the responsibility of the school districts.

(3) Initial approval of online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before July 26, 2009, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the initial approval process under this section until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. The first round of decisions regarding approval of online providers that are not multidistrict online providers shall be made by April 1, 2013. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

**Sec. 7.** RCW 28A.250.050 and 2011 1st sp.s. c 34 s 11 are each amended to read as follows:

(1) By August 31, 2010, all school district boards of directors shall develop policies and procedures regarding student access to online courses and online learning programs. The policies and procedures shall include but not be limited to: Student eligibility criteria; the types of online courses available to students through the school district; the methods districts will use to support student success, which may include a local advisor; when the school district will and will not pay course fees and other costs; the granting of high school credit; and a process for students and parents or guardians to formally acknowledge any course taken for which no credit is given. The policies and procedures shall take effect beginning with the 2010-11 school year. School districts shall submit their policies to the superintendent of public instruction by September 15, 2010. By

December 1, 2010, the superintendent of public instruction shall summarize the school district policies regarding student access to online courses and submit a report to the legislature.

(2) School districts must award credit and grades for online high school courses successfully completed by a student that meet the school district's graduation requirements and are provided by an approved online provider.

(3) School districts shall provide students with information regarding online courses that are available through the school district. The information shall include the types of information described in subsection (1) of this section.

(4) When developing local or regional online learning programs, school districts shall incorporate into the program design the approval criteria developed by the superintendent of public instruction under RCW 28A.250.020.

**Sec. 8.** RCW 28A.250.060 and 2011 1st sp.s. c 34 s 8 are each amended to read as follows:

(1) Beginning with the 2011-12 school year, school districts may claim state funding under (~~RCW 28A.150.260~~) section 4 of this act, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are:

(a) Offered by a multidistrict online provider approved under RCW 28A.250.020 by the superintendent of public instruction;

(b) Offered by a school district online learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or

(c) Offered by a regional online learning program where courses are jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative program agreement.

(2) Beginning with the 2013-14 school year, school districts may claim state funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction.

(3) Criteria shall be established by the superintendent of public instruction to allow online courses that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no courses have been approved and, if it is a high school course, the course meets Washington high school graduation requirements.

**Sec. 9.** RCW 28A.250.070 and 2009 c 542 s 8 are each amended to read as follows:

Nothing in this chapter is intended to diminish the rights of students to attend a nonresident school district in accordance with RCW 28A.225.220 through 28A.225.230 for the purposes of enrolling in online courses or online school programs. The office of online learning under RCW 28A.250.030 shall develop a standard form, which must be used by all school districts, for releasing a student to a nonresident school district for the purposes of enrolling in an online course or online school program.

**NEW SECTION. Sec. 10.** A new section is added to chapter 28A.250 RCW to read as follows:

An online school program may request a waiver from the office of the superintendent of public instruction to administer one or more sections of the statewide student assessment for grades three through eight for some or all students enrolled in the program on alternate days or on an alternate schedule, as long as the administration is within the testing period established by the office. The office may deny a request for a waiver if the online school program's proposal does not maintain adequate test security or would reduce the reliability of the assessment results by providing an inequitable advantage for some students.

**Sec. 11.** RCW 28A.225.220 and 1995 c 335 s 602 and 1995 c 52 s 2 are each reenacted and amended to read as follows:

(1) Any board of directors may make agreements with adults choosing to attend school, and may charge the adults reasonable tuition.

(2) A district is strongly encouraged to honor the request of a parent or guardian for his or her child to attend a school in another district or the request of a parent or guardian for his or her child to transfer as a student receiving home-based instruction.

(3) A district shall release a student to a nonresident district that agrees to accept the student if:

(a) A financial, educational, safety, or health condition affecting the student would likely be reasonably improved as a result of the transfer; or

(b) Attendance at the school in the nonresident district is more accessible to the parent's place of work or to the location of child care; or

(c) There is a special hardship or detrimental condition; or

(d) The purpose of the transfer is for the student to enroll in an online course or online school program offered by an online provider approved under RCW 28A.250.020.

(4) A district may deny the request of a resident student to transfer to a nonresident district if the release of the student would adversely affect the district's existing desegregation plan.

(5) For the purpose of helping a district assess the quality of its education program, a resident school district may request an optional exit interview or questionnaire with the parents or guardians of a child transferring to another district. No parent or guardian may be forced to attend such an interview or complete the questionnaire.

(6) Beginning with the 1993-94 school year, school districts may not charge transfer fees or tuition for nonresident students enrolled under subsection (3) of this section and RCW 28A.225.225. Reimbursement of a high school district for cost of educating high school pupils of a nonhigh school district shall not be deemed a transfer fee as affecting the apportionment of current state school funds.

**Sec. 12.** RCW 28A.225.225 and 2009 c 380 s 7 are each amended to read as follows:

(1) Except for students who reside out-of-state and students under RCW 28A.225.217, a district shall accept applications from nonresident students who are the children of full-time certificated and classified school employees, and those children shall be permitted to enroll:

(a) At the school to which the employee is assigned;

(b) At a school forming the district's K through 12 continuum which includes the school to which the employee is assigned; or

(c) At a school in the district that provides early intervention services pursuant to RCW 28A.155.065 or preschool services pursuant to RCW 28A.155.070, if the student is eligible for such services.

(2) A district may reject applications under this section if:

(a) The student's disciplinary records indicate a history of convictions for offenses or crimes, violent or disruptive behavior, or gang membership;

(b) The student has been expelled or suspended from a public school for more than ten consecutive days. Any policy allowing for readmission of expelled or suspended students under this subsection (2)(b) must apply uniformly to both resident and nonresident applicants; ~~((☞))~~

(c) Enrollment of a child under this section would displace a child who is a resident of the district, except that if a child is admitted under subsection (1) of this section, that child shall be permitted to remain enrolled at that school, or in that district's kindergarten through twelfth grade continuum, until he or she has completed his or her schooling; or

(d) The student has repeatedly failed to comply with requirements

for participation in an online school program, such as participating in weekly direct contact with the teacher or monthly progress evaluations.

(3) Except as provided in subsection (1) of this section, all districts accepting applications from nonresident students or from students receiving home-based instruction for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990. The policy may include rejection of a nonresident student if:

(a) Acceptance of a nonresident student would result in the district experiencing a financial hardship;

(b) The student's disciplinary records indicate a history of convictions for offenses or crimes, violent or disruptive behavior, or gang membership; or

(c) The student has been expelled or suspended from a public school for more than ten consecutive days. Any policy allowing for readmission of expelled or suspended students under this subsection (3)(c) must apply uniformly to both resident and nonresident applicants.

For purposes of subsections (2)(a) and (3)(b) of this section, "gang" means a group which: (i) Consists of three or more persons; (ii) has identifiable leadership; and (iii) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(4) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3).

**Sec. 13.** RCW 28A.150.100 and 2011 1st sp.s. c 34 s 10 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full-time equivalent students. This requirement does not apply to that portion of a district's annual average full-time equivalent enrollment that is enrolled in alternative learning experience ~~((programs))~~ courses as defined in RCW 28A.150.325 (as recodified by this act).

**Sec. 14.** RCW 28A.525.162 and 2012 c 244 s 2 are each amended to read as follows:

(1) Funds appropriated to the superintendent of public instruction from the common school construction fund shall be allotted by the superintendent of public instruction in accordance with this chapter.

(2) No allotment shall be made to a school district until such district has provided local funds equal to or greater than the difference between the total approved project cost and the amount of state funding assistance to the district for financing the project computed pursuant to RCW 28A.525.166, with the following exceptions:

(a) The superintendent of public instruction may waive the local requirement for state funding assistance for districts which have provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015.

(b) No such local funds shall be required as a condition to the allotment of funds from the state for the purpose of making major or minor structural changes to existing school facilities in order to bring

such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

(3) For the purpose of computing the state funding assistance percentage under RCW 28A.525.166 when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after May 11, 1989:

(i) For districts which have been designated as serving high school districts under RCW 28A.540.110, students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW 28A.540.110, including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool students with disabilities included in the enrollment count shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district;

(c) The number of kindergarten students included in the enrollment count shall be counted as one headcount student; and

(d) The number of students residing outside the school district who are enrolled in alternative learning experience (~~(programs)~~ courses) under RCW 28A.150.325 (as recodified by this act) shall be excluded from the total.

(4) In lieu of the exclusion in subsection (3)(d) of this section, a district may submit an alternative calculation for excluding students enrolled in alternative learning experience (~~(programs)~~ courses). The alternative calculation must show the student headcount use of district classroom facilities on a regular basis for a regular duration by out-of-district alternative learning experience (~~(program)~~) students subtracted by the headcount of in-district alternative learning experience (~~(program)~~) students not using district classroom facilities on a regular basis for a reasonable duration. The alternative calculation must be submitted in a form approved by the office of the superintendent of public instruction. The office of the superintendent of public instruction must develop rules to define "regular basis" and "reasonable duration."

(5) The superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, shall prescribe such rules as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

(6) For the purposes of this section, "preschool students with disabilities" means children of preschool age who have developmental disabilities who are entitled to services under RCW 28A.155.010 through 28A.155.100 and are not included in the kindergarten enrollment count of the district.

**Sec. 15.** RCW 28A.525.166 and 2012 c 244 s 3 are each amended to read as follows:

Allocations to school districts of state funds provided by RCW 28A.525.162 through 28A.525.180 shall be made by the superintendent of public instruction and the amount of state funding assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the superintendent.

(2) The state funding assistance percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\begin{array}{r} \text{District adjusted} \quad \text{Total state} \\ \text{3-valuation} \quad \div \quad \text{adjusted valuation} \\ \text{Computed} \quad \text{per pupil} \quad \text{per pupil} \quad \text{State} \\ \text{State} = \frac{\quad}{\quad} = \% \text{ Funding} \\ \text{Ratio} \quad \text{District adjusted} \quad \text{Total state} \quad \text{Assistance} \\ \text{3+valuation} \quad \div \quad \text{adjusted valuation} \\ \text{per pupil} \quad \text{per pupil} \end{array}$$

PROVIDED, That in the event the state funding assistance percentage to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state funding assistance under RCW 28A.525.162 through 28A.525.180, the superintendent may establish for such district a state funding assistance percentage not in excess of twenty percent of the approved cost of the project, if the superintendent finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed state funding assistance percentage developed in subsection (2) of this section, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed state funding assistance percentage for each percent of growth, with a maximum of twenty percent.

(4) In computing the state funding assistance percentage in subsection (2) of this section and adjusting the percentage under subsection (3) of this section, students residing outside the school district who are enrolled in alternative learning experience (~~(programs)~~ courses) under RCW 28A.150.325 (as recodified by this act) shall be excluded from the count of total pupils. In lieu of the exclusion in this subsection, a district may submit an alternative calculation for excluding students enrolled in alternative learning experience (~~(programs)~~ courses). The alternative calculation must show the student headcount use of district classroom facilities on a regular basis for a reasonable duration by out-of-district alternative learning experience (~~(program)~~) students subtracted by the headcount of in-district alternative learning experience (~~(program)~~) students not using district classroom facilities on a regular basis for a reasonable duration. The alternative calculation must be submitted in a form approved by the office of the superintendent of public instruction.

The office of the superintendent of public instruction must develop rules to define "regular basis" and "reasonable duration."

(5) The approved cost of the project determined in the manner prescribed in this section multiplied by the state funding assistance percentage derived as provided for in this section shall be the amount of state funding assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the superintendent: PROVIDED, FURTHER, That additional state funding assistance may be allowed if it is found by the superintendent, considering policy recommendations from the school facilities citizen advisory panel that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden resulting from projects of statewide significance or imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state funding assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state funding assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d), and (e) of this subsection, creating a like emergency.

**NEW SECTION. Sec. 16.** (1) The office of financial management shall conduct a study, in consultation with, at minimum, one representative each from school districts that administer remote, site-based, and online alternative learning experience courses; the office of the superintendent of public instruction; the Washington state institute for public policy; individuals with expertise in outcome-based public school funding models; a Washington state nonprofit organization with expertise in alternative learning education; and the legislative evaluation and accountability program committee.

(2) The purpose of the study is to create a proposal for efficiently and sustainably funding alternative learning experience courses and to recommend steps to increase the focus on educational outcomes. The study may recommend the funding method established in section 4 of this act or another method of funding. The study shall review alternative learning funding models used in other states and consider the advantages and disadvantages of applying state policies, including funding policies, differentially depending on the type of alternative learning experience course. The study should also include but not be limited to, recommendations for establishing baseline data regarding alternative learning experience student proficiency and achievement in relation to students in a comparable demographic, identifying outcome targets and methods to measure progress toward targets, identifying methods to ensure ongoing evaluation of outcomes that account for the student demographics being served, and improving alternative learning experience accountability.

(3) The office of financial management shall report its findings from the study to the education and fiscal committees of the legislature by November 1, 2013.

**NEW SECTION. Sec. 17.** (1) RCW 28A.150.262 and 28A.150.325 are each recodified as sections in chapter 28A.-- RCW (the new chapter created in section 18 of this act).

(2) 2011 1st sp.s. c 34 s 1 is codified as a section in chapter 28A.-- RCW (the new chapter created in section 18 of this act).

**NEW SECTION. Sec. 18.** Sections 1 and 4 of this act constitute a new chapter in Title 28A RCW."

Correct the title.

Signed by Representatives Santos, Chair; Stonier, Vice Chair; Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Bergquist; Fagan; Haigh; Hargrove; Hawkins; Hayes; Hunt; Klippert; Lytton; Maxwell; McCoy; Orwall; Parker; Pike; Pollet; Seaquist and Warnick.

Referred to Committee on Appropriations.

April 1, 2013

**SB 5806** Prime Sponsor, Senator Smith: Repealing an obsolete provision for a credit against property taxes paid on timber on public land. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Fitzgibbon; Hansen; Lytton; Pollet; Reykdal; Springer; Vick and Wilcox.

Passed to Committee on Rules for second reading.

April 2, 2013

**SSJM 8007** Prime Sponsor, Committee on Trade & Economic Development: Requesting that congress pass legislation reforming the harbor maintenance tax. Reported by Committee on Technology & Economic Development

MAJORITY recommendation: Do pass. Signed by Representatives Morris, Chair; Habib, Vice Chair; Smith, Ranking Minority Member; Crouse, Assistant Ranking Minority Member; Dahlquist; Hudgins; Kochmar; Magendanz; Maxwell; Morrell; Stonier; Tarleton; Vick; Walsh; Wylie and Zeiger.

Passed to Committee on Rules for second reading.

## SECOND SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

April 2, 2013

**SSB 5031** Prime Sponsor, Committee on Law & Justice: Concerning actions for damage to real property resulting from construction, alteration, or repair on adjacent property. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013

**SSB 5045** Prime Sponsor, Committee on Commerce & Labor: Allowing day spas to offer or supply without charge wine or beer by the individual glass to a customer for consumption on the

premises. Reported by Committee on Government Accountability & Oversight

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 66.20 RCW to read as follows:

(1) There shall be a permit known as a day spa permit to allow the holder to offer or supply without charge wine or beer by the individual glass to a customer for consumption on the premises. The customer must be at least twenty-one years of age and may only be offered one glass of wine or beer, and wine or beer served or consumed shall be purchased from a Washington state licensed retailer. A day spa offering wine or beer without charge may not advertise the service of complimentary wine or beer and may not sell wine or beer in any manner. Any employee involved in the service of wine or beer must complete a board-approved alcohol server training program.

(2) For the purposes of this section, "day spa" means a business that offers at least three of the following types of beauty services:

(a) Hair care, including shampooing, cutting, styling, and dyeing hair;

(b) Skin care, such as facials or body wraps;

(c) Massages; or

(d) Body toning equipment.

(3) The annual fee for this permit is one hundred twenty-five dollars."

Correct the title.

Signed by Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Kirby; Moscoso; Shea and Smith.

Referred to Committee on Appropriations.

April 2, 2013

ESB 5048 Prime Sponsor, Senator Sheldon: Concerning notice against trespass. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.52.010 and 2011 c 336 s 369 are each reenacted and amended to read as follows:

The following definitions apply in this chapter:

(1) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, directly or by electronic means.

(2) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

(3) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a computer.

(4) "Enter." The word "enter" when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his or her body, or any instrument or weapon held in his or her hand and used or intended to be used to threaten or intimidate a person or to detach or remove property.

(5) "Enters or remains unlawfully." A person "enters or remains unlawfully" in or upon premises when he or she is not then licensed, invited, or otherwise privileged to so enter or remain.

A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him or her by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner. Land that is used for commercial aquaculture or for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible or if notice is given by posting in a conspicuous manner. Similarly, a field fenced in any manner is not unimproved and apparently unused land. A license or privilege to enter or remain on improved and apparently used land that is open to the public at particular times, which is neither fenced nor otherwise enclosed in a manner to exclude intruders, is not a license or privilege to enter or remain on the land at other times if notice of prohibited times of entry is posted in a conspicuous manner.

(6) "Posting in a conspicuous manner" includes posting a sign or signs reasonably likely to come to the attention of intruders, indicating that entry is restricted or the placement of identifying fluorescent orange paint marks on trees or posts on property.

(a) Identifying fluorescent orange marks must be:

(i) Vertical lines not less than eight inches in length and not less than one inch in width;

(ii) Placed so that the bottom of the mark is between three and five feet from the ground; and

(iii) Placed at locations that are readily visible to any person approaching the property and no more than one hundred feet apart on forest land, as defined in RCW 76.09.020, or one thousand feet apart on land other than forest land.

(b) A landowner must use signs for posting in a conspicuous manner on access roads.

(c) A landowner may use fluorescent orange paint marks to provide notice against trespass only on farm and agricultural land, as defined in RCW 84.34.020(2) (a), (b), and (d), and forest land, as defined in RCW 76.09.020.

(7) "Premises" includes any building, dwelling, structure used for commercial aquaculture, or any real property."

Correct the title.

Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Passed to Committee on Rules for second reading.

April 3, 2013

SSB 5211 Prime Sponsor, Committee on Commerce & Labor: Concerning social networking accounts and profiles. Reported by Committee on Labor & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Sells, Chair; Reykdal, Vice Chair; Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Holy; Moeller; Ormsby and Short.

MINORITY recommendation: Do not pass. Signed by Representative Green.



Passed to Committee on Rules for second reading.

April 3, 2013

SSB 5227 Prime Sponsor, Committee on Commerce & Labor: Changing the corporate officer provisions of the employment security act. Reported by Committee on Labor & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 50.12.070 and 2009 c 432 s 11 are each amended to read as follows:

(1)(a) Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he or she deems necessary for the effective administration of this title.

(b) An employer who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for and compensation paid to the person or entity performing the work. In addition to the penalty in subsection (3) of this section, failure to obtain or maintain the record is subject to RCW 39.06.010.

(2)(a) Each employer shall register with the department and obtain an employment security account number. ~~(Registration must include the names and social security numbers of the owners, partners, members, or corporate officers of the business, as well as their mailing addresses and telephone numbers and other information the commissioner may by rule prescribe. Registration of corporations must also include the percentage of stock ownership for each corporate officer, delineated by zero percent, less than ten percent, or ten percent or more. Any changes in the owners, partners, members, or corporate officers of the business, and changes in percentage of ownership of the outstanding shares of stock of the corporation, must be reported to the department at intervals prescribed by the commissioner under (b) of this subsection.~~

~~(b))~~ Each employer shall make periodic reports at such intervals as the commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the full names and social security numbers of all such workers, and the total hours worked by each worker and such other information as the commissioner may by regulation prescribe.

~~((e))~~ (b) If the employing unit fails or has failed to report the number of hours in a reporting period for which a worker worked, such number will be computed by the commissioner and given the same force and effect as if it had been reported by the employing unit. In computing the number of such hours worked, the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the state's minimum wage in effect for such reporting period and the quotient, disregarding any remainder, shall be credited to the worker: PROVIDED, That although the computation so made will not be subject to appeal by the employing unit, monetary entitlement may be redetermined upon request if the department is provided with credible evidence of the actual hours worked. Benefits paid using computed hours are not considered an overpayment and are not subject to collections when the correction of computed hours results in an invalid or reduced claim; however:

(i) A contribution paying employer who fails to report the number of hours worked will have its experience rating account charged for all benefits paid that are based on hours computed under this subsection; and

(ii) An employer who reimburses the trust fund for benefits paid to workers and fails to report the number of hours worked shall reimburse the trust fund for all benefits paid that are based on hours computed under this subsection.

(3) Any employer who fails to keep and preserve records required by this section shall be subject to a penalty determined by the commissioner but not to exceed two hundred fifty dollars or two hundred percent of the quarterly tax for each offense, whichever is greater.

Sec. 2. RCW 50.04.165 and 2007 c 146 s 4 are each amended to read as follows:

~~((1)(a))~~ Services performed by a person appointed as an officer of a corporation under RCW 23B.08.400 ~~((are)), other than those covered by chapters 50.44 and 50.50 RCW, shall not be~~ considered services in employment. However, a corporation ~~((other than those covered by chapters 50.44 and 50.50 RCW,))~~ may elect to ~~((exempt from coverage under this title as provided in subsection (2) of this section, any bona fide officer of a public company as defined in RCW 23B.01.400~~ who:

~~(i) Is voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation;~~  
~~(ii) Is a shareholder of the corporation;~~  
~~(iii) Exercises substantial control in the daily management of the corporation;~~ and  
~~(iv) Whose primary responsibilities do not include the performance of manual labor.~~

~~(b) A corporation, other than those covered by chapters 50.44 and 50.50 RCW, that is not a public company as defined in RCW 23B.01.400 may exempt from coverage under this title as provided in subsection (2) of this section:~~

~~(i) Eight or fewer bona fide officers who: Voluntarily agree to be exempted from coverage; are voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation; and who exercise substantial control in the daily management of the corporation, from coverage under this title without regard to the officers' performance of manual labor if the exempted officer is a shareholder of the corporation; and~~

~~(ii) Any number of officers if all the exempted officers are related by blood within the third degree or marriage.~~

~~(c) Determinations with respect to the status of persons performing services for a corporation must be made, in part, by reference to Title 23B RCW and to compliance by the corporation with its own articles of incorporation and bylaws. For the purpose of determining coverage under this title, substance controls over form, and mandatory coverage under this title extends to all workers of this state, regardless of honorary titles conferred upon those actually serving as workers.~~

~~(2)(a) The corporation must notify the department when it elects to exempt one or more corporate officers from coverage. The notice must be in a format prescribed by the department and signed by the officer or officers being exempted and by another corporate officer verifying the decision to be exempt from coverage.~~

~~(b) The election to exempt one or more corporate officers from coverage under this title may be made when the corporation registers as required under RCW 50.12.070. The corporation may also elect exemption at any time following registration; however, an exemption will be effective only as of the first day of a calendar year. A written notice from the corporation must be sent to the department by January 15th following the end of the last calendar year of coverage. Exemption from coverage will not be retroactive, and the corporation is not eligible for a refund or credit for contributions paid for corporate officers for periods before the effective date of the~~

~~exemption:~~

~~—(3) A corporation may elect to reinstate coverage for one or more officers previously exempted under this section, subject to the following:~~

~~—(a) Coverage may be reinstated only at set intervals of five years beginning with the calendar year that begins five years after January 1, 2009.~~

~~—(b) Coverage may only be reinstated effective the first day of the calendar year. A written notice from the corporation must be sent to the department by January 15th following the end of the last calendar year the exemption from coverage will apply.~~

~~—(c) Coverage will not be reinstated if the corporation: Has committed fraud related to the payment of contributions within the previous five years; is delinquent in the payment of contributions; or is assigned the array calculation factor rate for nonqualified employers because of a failure to pay contributions when due as provided in RCW 50.29.025, or for related reasons as determined by the commissioner.~~

~~—(d) Coverage will not be reinstated retroactively.~~

~~(4) Except for corporations covered by chapters 50.44 and 50.50 RCW, personal services performed by bona fide corporate officers for corporations described under RCW 50.04.080(3) and 50.04.090(2) are not considered services in employment, unless the corporation registers with the department as required in RCW 50.12.070 and elects to provide coverage for its corporate officers under RCW 50.24.160)) cover not less than all of its corporate officers under RCW 50.24.160. If an employer does not elect to cover its corporate officers under RCW 50.24.160, the employer must notify its corporate officers in writing that they are ineligible for unemployment benefits. However, if the employer fails to provide notice, the individual's status as a corporate officer is unchanged and the person remains ineligible for unemployment benefits.~~

**Sec. 3.** RCW 50.04.080 and 2007 c 146 s 19 are each amended to read as follows:

((4)) "Employer" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title.

((2) For the purposes of collection remedies available under chapter 50.24 RCW, "employer," in the case of a corporation or limited liability company, includes persons found personally liable for any unpaid contributions and interest and penalties on those contributions under RCW 50.24.230.

~~(3) Except for corporations covered by chapters 50.44 and 50.50 RCW, "employer" does not include a corporation when all personal services are performed only by bona fide corporate officers, unless the corporation registers with the department as required in RCW 50.12.070 and elects to provide coverage for its corporate officers under RCW 50.24.160.)~~

**Sec. 4.** RCW 50.04.090 and 2007 c 146 s 20 are each amended to read as follows:

((4)) "Employing unit" means any individual or any type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had in its employ or in its "employment" one or more individuals performing services within this state. The state and its political subdivisions shall be deemed employing units as to any transactions occurring on or after September 21, 1977, which would render an employing unit liable for contributions, interest, or penalties under RCW 50.24.130.

"Employing unit" includes Indian tribes as defined in RCW 50.50.010.

~~((2) Except for corporations covered by chapters 50.44 and 50.50 RCW, "employing unit" does not include a corporation when all personal services are performed only by bona fide corporate officers, unless the corporation registers with the department as required in RCW 50.12.070 and elects to provide coverage for its corporate officers under RCW 50.24.160.)~~

**NEW SECTION. Sec. 5.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

**NEW SECTION. Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 7.** This act takes effect December 29, 2013."

Correct the title.

Signed by Representatives Sells, Chair; Reykdal, Vice Chair; Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Green; Holy; Moeller; Ormsby and Short.

Passed to Committee on Rules for second reading.

April 2, 2013

**ESB 5236** Prime Sponsor, Senator Kline: Creating the uniform correction or clarification of defamation act. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Goodman; Jinkins; Kirby; Klippert; Orwall and Roberts.

MINORITY recommendation: Do not pass. Signed by Representatives O'Ban, Assistant Ranking Minority Member; Nealey and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013

**E2SSB 5237** Prime Sponsor, Committee on Ways & Means: Establishing accountability for student performance in reading. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that literacy is an ongoing cognitive process that begins at birth. It involves the integration of listening, speaking, reading, writing, and critical thinking. Literacy also includes the knowledge that enables the speaker, writer, or reader to recognize and use language appropriate to a situation in an increasingly complex literate environment. Active literacy allows people to think, create, question, solve problems, and

reflect in order to participate effectively in a democratic, multicultural society.

(2) The legislature finds ample evidence of the importance of early literacy, particularly having students reading at grade level by the end of third grade. According to the national research council, high school graduation can be predicted with reasonable accuracy by knowing someone's reading skill at the end of third grade. Researchers at Yale University identified that three-quarters of students who are poor readers in third grade will remain poor readers in high school.

(3) The legislature further finds building an accountability system focused solely on a reader's performance in third grade will not result in the desired outcome. Identification, diagnosis, targeted and appropriate assistance, and progress monitoring must all begin as soon as an at-risk reader reaches the schoolhouse door. The legislature intends that the statewide assessment in third grade reading or English language arts serve as a checkpoint for the comprehensive system of instruction and services provided in grades kindergarten through three to support reading and early literacy skills.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) Responsibility for supporting reading and early literacy is shared among local school districts, state and regional education agencies, and the legislature itself. The legislature's responsibility is to continue to provide funding for the program of basic education, including statewide implementation of full-day kindergarten and reduced class sizes in grades kindergarten through three as provided under RCW 28A.150.260. In addition, the legislature provides support for such initiatives as the Washington reading corps, early learning programs for at-risk children, and professional development for educators.

(2) The office of the superintendent of public instruction is responsible for:

(a) Continuing to work collaboratively with state and regional partners such as the department of early learning and the educational service districts to establish early literacy benchmarks and standards and to implement the Washington state comprehensive literacy plan;

(b) Disseminating research and information to school districts about evidence-based programs and practices in such areas as reading and early literacy, English language acquisition, and instruction for students with dyslexia and other learning disabilities, as well as research on how neuroscience can inform reading instruction;

(c) Providing statewide models to support school districts that are implementing responses to intervention, positive behavior intervention support systems, or other similar comprehensive models of data-based identification and early intervention; and

(d) Within available funds and in partnership with the educational service districts, providing technical assistance and professional development opportunities for school districts.

(3) The responsibility of school districts is to provide a comprehensive system of instruction and services in reading and early literacy to kindergarten through third grade students and their parents or guardians that is tiered based on the degree of student need for additional support. Reading and early literacy systems provided by school districts must include:

(a) Annual use of screening assessments and other tools to identify at-risk readers in kindergarten through third grade, such as the Washington kindergarten inventory of developing skills, the Washington state early learning and development guidelines for birth through third grade, and the second grade reading assessment under RCW 28A.300.310;

(b) Based on the results of screening assessments and progress monitoring of at-risk readers, use of appropriate diagnostic assessments and evaluations to identify potential causes of low reading and literacy skills, such as evaluations to determine whether the student has a form of dyslexia or other learning disability; has

another type of disability that requires development of an individualized education program or a section 504 plan; is an English language learner whose language proficiency is impeding the student's reading; has a vision, hearing, or other physical challenge that may be affecting the student's reading; or has other social-emotional or behavioral challenges that are affecting school performance;

(c) Provision of a range of research and evidence-based strategies to assist students in reaching grade-level performance in reading and early literacy, which may include supplemental instruction, specialized curriculum, use of literacy specialists and coaches, special education, section 504 accommodations, transitional bilingual instruction, and referral to social and health service resources in the school district or community;

(d) Continuous use of data, gathered using multiple measures and methods, for identification, assessment, evaluation, progress monitoring, and adjustment of appropriate interventions and support;

(e) To the extent appropriate organizations exist in the local community, creation of partnerships with early learning providers and organizations, out-of-school education service providers, and social and health service organizations and providers, to align and coordinate provision of in and out-of-school services in a wraparound manner that supports all aspects of students' needs; and

(f) Research-based family involvement and engagement strategies, including strategies to help families and guardians assist in improving students' reading and early literacy skills at home.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) The results from the third grade statewide student assessment in reading or English language arts serve as a key accountability measure for the comprehensive system of instruction and services under section 2 of this act to support reading and early literacy.

(2) The state board of education shall annually monitor school and district progress on the third grade statewide student assessment in reading or English language arts, as well as progress on the reading or English language arts assessments in fourth through eighth grade. The board shall examine the results longitudinally to identify patterns and trends within schools and among elementary schools and feeder middle schools. The board shall also examine data disaggregated by student subgroups. The board shall establish benchmarks for identifying warning signs of systemic problems in schools and school districts based on assessment results in reading or English language arts over a three-year period.

(3) The state board of education shall submit a biennial report to the superintendent of public instruction on its analysis and findings under subsection (2) of this section. Based on the report, the superintendent of public instruction shall consult with reading and language arts teachers, the department of early learning, educational service districts, out-of-school education service providers, and other experts to develop recommendations for actions that may be taken, including but not limited to legislative actions, to improve outcomes in reading and early literacy. The recommendations from the superintendent of public instruction must be submitted to the education committees of the legislature biennially, no later than December 1st of each even-numbered year.

**NEW SECTION. Sec. 4.** Subject to funds appropriated for this specific purpose, the University of Washington shall conduct a research study during the 2013-2015 biennium on the neuroscience associated with children achieving early literacy. The study shall report not only scientific findings, but also explain and illustrate the implications and relevance of the findings for improving reading and literacy instruction and suggest strategies for elementary level classroom teachers and reading specialists to incorporate the results into their practice."

Correct the title.

Signed by Representatives Santos, Chair; Stonier, Vice Chair; Bergquist; Haigh; Hunt; Lytton; Maxwell; McCoy; Orwall; Pollet and Seaquist.

MINORITY recommendation: Do not pass. Signed by Representatives Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Fagan; Hargrove; Hawkins; Hayes; Klippert; Parker; Pike and Warnick.

Referred to Committee on Appropriations.

April 2, 2013

SSB 5256 Prime Sponsor, Committee on Law & Justice: Concerning the confidentiality of certain autopsy and postmortem reports and records. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 68.50.105 and 2011 c 61 s 1 are each amended to read as follows:

(1) Reports and records of autopsies or postmortems shall be confidential, except that the following persons may examine and obtain copies of any such report or record: The personal representative of the decedent as defined in RCW 11.02.005, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, the department of labor and industries in cases in which it has an interest under RCW 68.50.103, or the secretary of the department of social and health services or his or her designee in cases being reviewed under RCW 74.13.640.

(2)(a) Notwithstanding the restrictions contained in this section regarding the dissemination of records and reports of autopsies or postmortems, nor the exemptions referenced under RCW 42.56.240(1), nothing in this chapter prohibits a coroner, medical examiner, or his or her designee, from publicly discussing his or her findings as to any death subject to the jurisdiction of his or her office where actions of a law enforcement officer or corrections officer have been determined to be a proximate cause of the death, except as provided in (b) of this subsection.

(b) A coroner, medical examiner, or his or her designee may not publicly discuss his or her findings outside of formal court or inquest proceedings if there is a pending or active criminal investigation, or a criminal or civil action, concerning a death that has commenced prior to the effective date of this section.

(3) The coroner, the medical examiner, or the attending physician shall, upon request, meet with the family of the decedent to discuss the findings of the autopsy or postmortem. For the purposes of this section, the term "family" means the surviving spouse, state registered domestic partner, or any child, parent, grandparent, grandchild, brother, or sister of the decedent, or any person who was guardian of the decedent at the time of death.

NEW SECTION. Sec. 2. A new section is added to chapter 68.50 RCW to read as follows:

No coroner, medical examiner, or his or her designee shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of any information related to his or her findings under RCW 68.50.105 if the coroner, medical examiner, or his or her designee acted in good faith in attempting to comply with the provisions of this chapter.

NEW SECTION. Sec. 3. This act takes effect January 1, 2014." Correct the title.

Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013

E2SSB 5330 Prime Sponsor, Committee on Ways & Means: Improving student achievement and student outcomes. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended. Signed by Representatives Santos, Chair; Stonier, Vice Chair; Bergquist; Haigh; Hunt; McCoy; Orwall; Pike; Pollet; Seaquist and Warnick.

MINORITY recommendation: Do not pass. Signed by Representatives Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Fagan; Hargrove; Hawkins; Hayes; Klippert; Lytton; Maxwell and Parker.

Referred to Committee on Appropriations.

April 2, 2013

SSB 5456 Prime Sponsor, Committee on Human Services & Corrections: Concerning detentions under the involuntary treatment act. Reported by Committee on Judiciary

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 71.05 RCW to read as follows:

A designated mental health professional conducting an evaluation of a person under RCW 71.05.150 or 71.05.153 must consult with any examining emergency room physician regarding the physician's observations and opinions relating to the person's condition, and whether, in the view of the physician, detention is appropriate. The designated mental health professional shall take serious consideration of observations and opinions by examining emergency room physicians in determining whether detention under this chapter is appropriate. The designated mental health professional must document the consultation with an examining emergency room physician, including the physician's observations or opinions regarding whether detention of the person is appropriate.

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

A designated mental health professional who conducts an evaluation for imminent likelihood of serious harm or imminent danger because of being gravely disabled under RCW 71.05.153 must also evaluate the person under RCW 71.05.150 for likelihood of serious harm or grave disability that does not meet the imminent standard for emergency detention."

Correct the title.

Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013  
ESSB 5551 Prime Sponsor, Committee on Ways & Means:  
 Concerning competency to stand trial evaluations.  
 Reported by Committee on Judiciary

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 10.77 RCW to read as follows:

(1) If, at the time of a referral for an evaluation of competency to stand trial in a jail for an in-custody defendant, the department has not met the performance target for timely completion of competency evaluations under RCW 10.77.068(1)(a)(ii) during the most recent quarter in fifty percent of cases submitted by the referring county, as documented in the most recent quarterly report under RCW 10.77.068(3) or confirmed by records maintained by the department, the department shall reimburse the county for the cost of appointing a qualified expert or professional person under RCW 10.77.060(1)(a) subject to subsections (2) and (3) of this section.

(2) Appointment of a qualified expert or professional person under this section must be from a list of qualified experts or professional persons assembled with participation by representatives of the prosecuting attorney and the defense bar of the county. The qualified expert or professional person shall complete an evaluation and report that includes the components specified in RCW 10.77.060(3).

(3) The county shall provide a copy of the evaluation report to the applicable state hospital upon referral of the defendant for admission to the state hospital. The county shall maintain data on the timeliness of competency evaluations completed under this section.

(4) A qualified expert or professional person appointed by a court under this section must be compensated for competency evaluations in an amount that will encourage in-depth evaluation reports. Subject to the availability of amounts appropriated for this specific purpose, the department shall reimburse the county in an amount determined by the department to be fair and reasonable with the county paying any excess costs. The amount of reimbursement established by the department must at least meet the equivalent amount for evaluations conducted by the department.

(4) Nothing in this section precludes either party from objecting to the appointment of an evaluator on the basis that an inpatient evaluation is appropriate under RCW 10.77.060(1)(d).

(5) This section expires June 30, 2016.

**NEW SECTION. Sec. 2.** Within current resources, the office of the state human resources director shall gather market salary data related to psychologists and psychiatrists employed by the department of social and health services and department of corrections and report to the governor and relevant committees of the legislature by June 30, 2013.

**NEW SECTION. Sec. 3.** Section 2 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."

Correct the title.

Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Referred to Committee on Appropriations.

April 2, 2013

SSB 5568 Prime Sponsor, Committee on Financial Institutions, Housing & Insurance: Concerning the disclosure of certain information when screening tenants. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013  
ESB 5666 Prime Sponsor, Senator Dammeier: Concerning disclosure of information by health care quality improvement programs, quality assurance programs, and peer review committees. (REVISED FOR PASSED LEGISLATURE: Concerning health care quality improvement measures. ) Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 7.71.030 and 2012 c 165 s 1 are each amended to read as follows:

(1) If the limitation on damages under RCW 7.71.020 and P.L. 99-660 Sec. 411(1) does not apply, this section shall provide the exclusive ((remedy)) remedies in any lawsuit by a health care provider for any action taken by a professional peer review body of health care providers as defined in RCW 7.70.020((, that is found to be based on matters not related to the competence or professional conduct of a health care provider)).

(2) ((Actions)) Remedies shall be limited to appropriate injunctive relief, and damages shall be allowed only for lost earnings directly attributable to the action taken by the professional peer review body, incurred between the date of such action and the date the action is functionally reversed by the professional peer review body.

(3) Reasonable attorneys' fees and costs shall be awarded if approved by the court under RCW 7.71.035.

(4) The statute of limitations for actions under this section shall be one year from the date of the action of the professional peer review body.

Sec. 2. RCW 70.41.200 and 2007 c 273 s 22 and 2007 c 261 s 3 are each reenacted and amended to read as follows:

(1) Every hospital shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of ((a)) one or more quality improvement committees with the responsibility to review the services rendered in the hospital, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. ((The)) Different quality improvement committees may be established as a part of a quality improvement program to review different health care services. Such committees shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall ensure that information gathered

pursuant to the program is used to review and to revise hospital policies and procedures;

(b) A process, including a medical staff privileges sanction procedure which must be conducted substantially in accordance with medical staff bylaws and applicable rules, regulations, or policies of the medical staff through which credentials, physical and mental capacity, professional conduct, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) ((The)) A process for the periodic review of the credentials, physical and mental capacity, professional conduct, and competence in delivering health care services of all ((persons)) other health care providers who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients including health care-associated infections as defined in RCW 43.70.056, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, infection control, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings

or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the governing board of the hospital in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department of health shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The medical quality assurance commission or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department, the joint commission on accreditation of health care organizations, and any other accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of hospitals. Information so obtained shall not be subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each hospital shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510, a coordinated quality improvement committee maintained by an ambulatory surgical facility under RCW 70.230.070, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient

information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 74.42.640 (7) and (9), and 4.24.250.

(9) A hospital that operates a nursing home as defined in RCW 18.51.010 may conduct quality improvement activities for both the hospital and the nursing home through a quality improvement committee under this section, and such activities shall be subject to the provisions of subsections (2) through (8) of this section.

(10) Violation of this section shall not be considered negligence per se.

Sec. 3. RCW 70.41.230 and 1994 sp.s. c 9 s 744 are each amended to read as follows:

(1) Prior to granting or renewing clinical privileges or association of any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from the physician and the physician shall provide the following information:

(a) The name of any hospital or facility with or at which the physician had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the hospital may request additional information going back further than five years, and the physician shall use his or her best efforts to comply with such a request for additional information;

(b) (If such association, employment, privilege, or practice was discontinued, the reasons for its discontinuation) Whether the physician has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct:

(i) License to practice any profession in any jurisdiction;

(ii) Other professional registration or certification in any jurisdiction;

(iii) Specialty or subspecialty board certification;

(iv) Membership on any hospital medical staff;

(v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;

(vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;

(vii) Professional society membership or fellowship;

(viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;

(ix) Academic appointment;

(x) Authority to prescribe controlled substances (drug enforcement agency or other authority);

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician deems appropriate;

(e) A waiver by the physician of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and

(f) A verification by the physician that the information provided by the physician is accurate and complete.

(2) Prior to granting privileges or association to any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from any hospital with or at which the physician had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the physician:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals pursuant to RCW 18.71.0195.

(3) The medical quality assurance commission shall be advised within thirty days of the name of any physician denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(4) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) and (2) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(5) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or

revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(6) Hospitals shall be granted access to information held by the medical quality assurance commission and the board of osteopathic medicine and surgery pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

(7) Violation of this section shall not be considered negligence per se.

Sec. 4. RCW 70.230.080 and 2007 c 273 s 9 are each amended to read as follows:

(1) Every ambulatory surgical facility shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of ((a)) one or more quality improvement committees with the responsibility to review the services rendered in the ambulatory surgical facility, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. ((The)) Different quality improvement committees may be established as a part of the quality improvement program to review different health care services. Such committees shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall ensure that information gathered pursuant to the program is used to review and to revise the policies and procedures of the ambulatory surgical facility;

(b) A process, including a medical staff privileges sanction procedure which must be conducted substantially in accordance with medical staff bylaws and applicable rules, regulations, or policies of the medical staff through which credentials, physical and mental capacity, professional conduct, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the ambulatory surgical facility;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the ambulatory surgical facility's experience with negative health care outcomes and incidents injurious to patients, patient grievances, professional liability premiums, settlements, awards, costs incurred by the ambulatory surgical facility for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual practitioners within the practitioner's personnel or credential file maintained by the ambulatory surgical facility;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee is not subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence of information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any, and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the management of the ambulatory surgical facility, as identified in the facility's application, in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The medical quality assurance commission, the board of osteopathic medicine and surgery, or the podiatric medical board, as appropriate, may review and audit the



records of committee decisions in which a practitioner's privileges are terminated or restricted. Each ambulatory surgical facility shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained is not subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of an ambulatory surgical facility to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department and any accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of the ambulatory surgical facility. Information so obtained is not subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each ambulatory surgical facility shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510 or 70.41.200, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents are not subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 70.41.200(3), 74.42.640 (7) and (9), and 4.24.250.

(9) An ambulatory surgical facility that participates in a coordinated quality improvement program under RCW 43.70.510 shall be deemed to have met the requirements of this section.

(10) Violation of this section shall not be considered negligence per se.  
Sec. 5. RCW 70.230.140 and 2007 c 273 s 15 are each amended to read as follows:

(1) Prior to granting or renewing clinical privileges or association of any practitioner or hiring a practitioner, an ambulatory surgical facility approved pursuant to this chapter shall request from the practitioner and the practitioner shall provide the following information:

(a) The name of any hospital, ambulatory surgical facility, or other facility with or at which the practitioner had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the ambulatory surgical facility may request additional information going back further than five years, and the physician shall use his or her

best efforts to comply with such a request for additional information;

(b) ((If such association, employment, privilege, or practice was discontinued, the reasons for its discontinuation)) Whether the physician has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct:

(i) License to practice any profession in any jurisdiction;

(ii) Other professional registration or certification in any jurisdiction;

(iii) Specialty or subspecialty board certification;

(iv) Membership on any hospital medical staff;

(v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;

(vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;

(vii) Professional society membership or fellowship;

(viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;

(ix) Academic appointment;

(x) Authority to prescribe controlled substances (drug enforcement agency or other authority);

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the practitioner deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the practitioner deems appropriate;

(e) A waiver by the practitioner of any confidentiality provisions concerning the information required to be provided to ambulatory surgical facilities pursuant to this subsection; and

(f) A verification by the practitioner that the information provided by the practitioner is accurate and complete.

(2) Prior to granting privileges or association to any practitioner or hiring a practitioner, an ambulatory surgical facility approved under this chapter shall request from any hospital or ambulatory surgical facility with or at which the practitioner had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the practitioner:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals or ambulatory surgical facilities pursuant to RCW 18.130.070.

(3) The medical quality assurance commission, board of osteopathic medicine and surgery, podiatric medical board, or dental quality assurance commission, as appropriate, shall be advised within thirty days of the name of any practitioner denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(4) A hospital, ambulatory surgical facility, or other facility that receives a request for information from another hospital, ambulatory surgical facility, or other facility pursuant to subsections (1) and (2) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital, ambulatory surgical facility, or other facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital, ambulatory surgical facility, or facility. A hospital, ambulatory surgical facility, other facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(5) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any, and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department to be made regarding the care and treatment received.

(6) Ambulatory surgical facilities shall be granted access to information held by the medical quality assurance commission, board of osteopathic medicine and surgery, or podiatric medical board pertinent to decisions of the ambulatory surgical facility regarding credentialing and recredentialing of practitioners.

(7) Violation of this section shall not be considered negligence per se."

Correct the title.

Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013

SB 5674

Prime Sponsor, Senator Kohl-Welles: Allowing wine and beer sampling at farmers markets. Reported by Committee on Government Accountability & Oversight

MAJORITY recommendation: Do pass as amended.

On page 2, after line 28, insert the following:  
 "(6) For the purposes of this section, a "qualifying farmers market" has the same meaning as defined in RCW 66.24.170. However, if a farmers market does not satisfy RCW 66.24.170(5)(g)(i)(B), which requires that the total combined gross annual sales of vendors who are farmers exceed the total combined gross annual sales of vendors who are processors or resellers, a farmers market is still considered a "qualifying farmers market" if the total combined gross annual sales of vendors at the farmers market is one million dollars or more."

Signed by Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Kirby; Moscoso; Shea and Smith.

Passed to Committee on Rules for second reading.

April 2, 2013

SB 5692

Prime Sponsor, Senator King: Concerning standby guardians and limited guardians. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013

ESSB 5753

Prime Sponsor, Committee on Early Learning & K-12 Education: Providing flexibility in the education system. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.300.150 and 2006 c 263 s 705 are each amended to read as follows:

The superintendent of public instruction shall collect and disseminate to school districts information on child abuse and neglect prevention curriculum and shall adopt rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools. The superintendent of public instruction and the departments of social and health services and ~~((community, trade, and economic development))~~ commerce shall share relevant information. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

Sec. 2. RCW 28A.230.150 and 1969 ex.s. c 223 s 28A.02.090 are each amended to read as follows:

On January 16th of each year or the preceding Friday when January 16th falls on a nonschool day, there shall be observed within each public school "~~(Temperance and)~~ Good Citizenship Day". Annually the state superintendent of public instruction shall ~~((duly))~~ prepare and publish for circulation among the teachers of the state a program for use on such day embodying topics pertinent thereto and may from year to year designate particular laws for special observance.

**NEW SECTION. Sec. 3.** The following acts or parts of acts are each repealed:

(1) RCW 28A.220.050 (Information on proper use of left-hand lane) and 1986 c 93 s 4; and

(2) RCW 28A.220.080 (Information on motorcycle awareness) and 2007 c 97 s 4 & 2004 c 126 s 1.

**NEW SECTION. Sec. 4.** 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 Santos, Chair; Stonier, Vice Chair; Bergquist; Haigh; Hunt; Lytton; Maxwell; McCoy; Orwall; Pollet and Seaquist.

MINORITY recommendation: Do not pass. Signed by Representatives Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Fagan; Hargrove; Hawkins; Hayes; Klippert; Parker; Pike and Warnick.

Passed to Committee on Rules for second reading.

April 3, 2013

SSB 5767 Prime Sponsor, Committee on Agriculture, Water & Rural Economic Development: Concerning inspection of dairy cattle. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 16.57.160 and 2011 c 204 s 13 are each amended to read as follows:

(1) The director may adopt rules:

(a) Designating any point for mandatory inspection of cattle or horses or the furnishing of proof that cattle or horses passing or being transported through the point have been inspected or identified and are lawfully being transported;

(b) Providing for issuance of individual horse and cattle identification certificates or other means of horse and cattle identification;

(c) Designating the documents that constitute other satisfactory proof of ownership for cattle and horses. A bill of sale may not be designated as documenting satisfactory proof of ownership for cattle; and

(d) Designating when inspection certificates, certificates of permit, or other transportation documents required by law or rule must designate a physical address of a destination. Cattle and horses must be delivered or transported directly to the physical address of that destination.

(2) A self-inspection certificate may be accepted as satisfactory proof of ownership for cattle if the director determines that the self-inspection certificate, together with other available documentation, sufficiently establishes ownership. Self-inspection certificates

completed after June 10, 2010, are not satisfactory proof of ownership for cattle.

(3)(a) Upon request by a milk producer licensed under chapter 15.36 RCW, the department must issue an official individual identification tag to be placed by the producer before the first point of sale on bull calves and free-martins (infertile female calves) under thirty days of age. The fee for each tag is the cost to the department for manufacture, purchase, and distribution of the tag plus the applicable beef commission assessment. As used in this subsection (3), "green tag" means the official individual identification issued by the department.

(b) Transactions involving unbranded dairy breed bull calves or free-martins (infertile female calves) not being moved or transported out of Washington are exempt from inspection requirements under this chapter only if:

(i) The animal is under thirty days old and has not been previously bought or sold;

(ii) The seller holds a valid milk producer's license under chapter 15.36 RCW;

(iii) The sale does not take place at or through a public livestock market or special sale authorized by chapter 16.65 RCW;

(iv) Each animal is officially identified as provided in (a) of this subsection; and

(v) A certificate of permit and a bill of sale listing each animal's green tag accompanies the animal to the buyer's location. These documents do not constitute proof of ownership under this chapter.

(c) All fees received under (a) of this subsection, except for the beef commission assessment, must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230.

**Sec. 2.** RCW 16.57.370 and 2003 c 326 s 43 are each amended to read as follows:

All fees collected under the provisions of this chapter shall be deposited in an account in the agricultural local fund and used to carry out the purposes of this chapter, except as otherwise provided.

**NEW SECTION. Sec. 3.** RCW 16.57.303 (Proceeds from sale of impounded dairy breed cattle--Paid to seller) and 2003 c 326 s 37 are each repealed.

**Sec. 4.** RCW 16.57.300 and 2003 c 326 s 36 are each amended to read as follows:

~~((Except under RCW 16.57.303,))~~ The proceeds from the sale of cattle and horses when impounded under RCW 16.57.290, after paying the cost thereof, shall be paid to the director, who shall make a record showing the brand or marks or other method of identification of the animals and the amount realized from the sale thereof. However, the proceeds from a sale of the cattle or horses at a licensed public livestock market shall be held by the licensee for a reasonable period not to exceed thirty days to permit the consignor to establish ownership or the right to sell the cattle or horses. If the consignor fails to establish legal ownership or the right to sell the cattle or horses, the proceeds shall be paid to the director to be disposed of as any other stray proceeds."

Correct the title.

Signed by Representatives Lytton, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Buys; Dunshee; Haigh; Hurst; Kretz; Orcutt; Pettigrew; Schmick; Stanford; Van De Wege and Warnick.

Passed to Committee on Rules for second reading.

April 2, 2013

SB 5797 Prime Sponsor, Senator Hobbs: Encouraging the establishment of effective specialty courts. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that in the state of Washington, there exists a type of court administered by the judiciary commonly called a specialty or therapeutic court. Judges in the trial courts throughout the state effectively utilize specialty and therapeutic courts to remove defendants with their consent and the consent of the prosecuting authority from the normal criminal court system and allow those defendants the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest in exchange for dismissal of the charges. Trial courts have proved adept at creative approaches in fashioning a wide variety of specialty and therapeutic courts addressing the spectrum of social issues that can contribute to criminal activity.

The legislature also finds that there are presently more than seventy-four specialty and therapeutic courts operating in the state of Washington that save costs to both the trial courts and law enforcement by strategic focus of resources within the criminal justice system. There are presently more than fifteen types of specialty and therapeutic courts in the state including: Veterans treatment court, adult drug court, juvenile drug court, family dependency treatment court, mental health court, DUI court, community court, reentry drug court, tribal healing to wellness court, truancy court, homeless court, domestic violence court, gambling court, and Back on TRAC: Treatment, responsibility, accountability on campus.

The legislature recognizes the inherent authority of the judiciary under Article IV, section 1 of the state Constitution to establish specialty and therapeutic courts. The legislature recognizes the outstanding contribution to the state and a local community made by the establishment of specialty and therapeutic courts and desires to provide a general provision in statute acknowledging and encouraging the judiciary to provide for such courts to address the particular needs within a given judicial jurisdiction.

**NEW SECTION. Sec. 2.** A new section is added to chapter 2.28 RCW to read as follows:

(1) The legislature respectfully encourages the supreme court to adopt any administrative orders and court rules of practice and procedure it deems necessary to support the establishment of effective specialty and therapeutic courts.

(2) Any jurisdiction may establish a specialty or therapeutic court under this section and may seek state or federal funding as it becomes available for the establishment, maintenance, and expansion of specialty and therapeutic courts and for the provision by participating agencies of treatment to participating defendants.

(3) Any jurisdiction establishing a specialty court shall endeavor to incorporate the treatment court principles of best practices as recognized by state and national treatment court agencies and organizations in structuring a particular program, which may include:

- (a) Determine the population;
- (b) Perform a clinical assessment;
- (c) Develop the treatment plan;
- (d) Supervise the offender;
- (e) Forge agency, organization, and community partnerships;
- (f) Take a judicial leadership role;
- (g) Develop case management strategies;
- (h) Address transportation issues;
- (i) Evaluate the program;
- (j) Ensure a sustainable program.

(4) Specialty and therapeutic courts shall continue to: (a) Obtain the consent of the prosecuting authority in order to remove a charged offender from the regular course of prosecution and punishment; and (b) comply with sentencing requirements as established in state law.

**NEW SECTION. Sec. 3.** The superior court judges' association and the district and municipal court judges' association are encouraged to invite other appropriate organizations and convene a work group to examine the structure of all specialty and therapeutic courts in Washington. If such a work group is convened, the legislature requests a recommendation for the structure for such courts in the law and court rules, incorporating principles of best practices relative to a particular court as recognized by state and national treatment court agencies and organizations, to make such courts more effective and more prevalent throughout the state. The legislature requests such recommendations prior to the beginning of the 2014 legislative session, and respectfully requests the supreme court to consider any recommendations from the work group pertaining to necessary changes in court rules.

**NEW SECTION. Sec. 4.** For the purposes of this act, "specialty court" and "therapeutic court" both mean a specialized pretrial or sentencing docket in select criminal cases where agencies coordinate work to provide treatment for a defendant who has particular needs.

**Sec. 5.** RCW 2.28.170 and 2009 c 445 s 2 are each amended to read as follows:

(1) (~~(Counties)~~) Jurisdictions may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing felony and nonfelony offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a drug court program must first:

(i) Exhaust all federal funding that is available to support the operations of its drug court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for drug court operations and associated services. However, from July 26, 2009, until June 30, 2013, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a drug court pursuant to RCW 70.96A.350.

(b) Any (~~(county)~~) jurisdiction that establishes a drug court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The drug court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from substance abuse treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person.

**Sec. 6.** RCW 2.28.175 and 2012 c 183 s 1 are each amended to read as follows:

(1) (~~(Counties)~~) Jurisdictions may establish and operate DUI courts. Municipalities may enter into cooperative agreements with counties or other municipalities that have DUI courts to provide DUI court services.

(2) For the purposes of this section, "DUI court" means a court that has special calendars or dockets designed to achieve a reduction

in recidivism of impaired driving among nonviolent, alcohol abusing offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic testing for alcohol use and, if applicable, drug use; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a DUI court program must first:

(i) Exhaust all federal funding that is available to support the operations of its DUI court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for DUI court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for DUI court operations and associated services. However, until June 30, 2014, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a DUI court established as of January 1, 2011.

(b) Any jurisdiction that establishes a DUI court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The DUI court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from alcohol treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030, vehicular homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or an equivalent out-of-state offense; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) That is vehicular homicide or vehicular assault;

(D) During which the defendant used a firearm; or

(E) During which the defendant caused substantial or great bodily harm or death to another person.

**Sec. 7.** RCW 2.28.180 and 2011 c 236 s 1 are each amended to read as follows:

(1) (~~Counties~~) Jurisdictions may establish and operate mental health courts.

(2) For the purposes of this section, "mental health court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and symptoms of mental illness among nonviolent, felony and nonfelony offenders with mental illnesses and recidivism among nonviolent felony and nonfelony offenders who have developmental disabilities as defined in RCW 71A.10.020 or who have suffered a traumatic brain injury by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment including drug treatment for persons with co-occurring disorders; mandatory periodic reviews, including drug testing if indicated; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a mental health court program must first:

(i) Exhaust all federal funding that is available to support the operations of its mental health court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for mental health court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for mental health court operations and associated services.

(b) Any (~~county~~) jurisdiction that establishes a mental health court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The mental health

court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from psychiatric treatment or treatment related to his or her developmental disability or traumatic brain injury;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person.

**Sec. 8.** RCW 2.28.190 and 2011 c 293 s 11 are each amended to read as follows:

Any (~~county~~) jurisdiction that has established a DUI court, drug court, and a mental health court under this chapter may combine the functions of these courts into a single therapeutic court.

**NEW SECTION. Sec. 9.** This act takes effect August 1, 2013."

Correct the title.

Signed by Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

Passed to Committee on Rules for second reading.

April 2, 2013

ESB 5860

Prime Sponsor, Senator Padden: Addressing legal proceedings by the attorney general on behalf of superior court judges. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.10.030 and 2009 c 549 s 5048 are each amended to read as follows:

The attorney general shall:

(1) Appear for and represent the state before the supreme court or the court of appeals in all cases in which the state is interested;

(2) Institute and prosecute all actions and proceedings for, or for the use of the state, which may be necessary in the execution of the duties of any state officer, except as provided in section 2 of this act;

(3) Defend all actions and proceedings against any state officer or employee acting in his or her official capacity, in any of the courts of this state or the United States;

(4) Consult with and advise the several prosecuting attorneys in matters relating to the duties of their office, and when the interests of the state require, he or she shall attend the trial of any person accused of a crime, and assist in the prosecution;

(5) Consult with and advise the governor, members of the legislature, and other state officers, and when requested, give written opinions upon all constitutional or legal questions relating to the duties of such officers;

(6) Prepare proper drafts of contracts and other instruments relating to subjects in which the state is interested;

(7) Give written opinions, when requested by either branch of the legislature, or any committee thereof, upon constitutional or legal questions;

(8) Enforce the proper application of funds appropriated for the public institutions of the state, and prosecute corporations for failure or refusal to make the reports required by law;

(9) Keep in proper books a record of all cases prosecuted or defended by him or her, on behalf of the state or its officers, and of all proceedings had in relation thereto, and deliver the same to his or her successor in office;

(10) Keep books in which he or she shall record all the official opinions given by him or her during his or her term of office, and deliver the same to his or her successor in office;

(11) Pay into the state treasury all moneys received by him or her for the use of the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.10 RCW to read as follows:

RCW 43.10.030(2) does not require the attorney general to institute or prosecute any action or proceeding on behalf of a superior court judge or judges against the state or a county when any purpose of the action or proceeding, any cause of action, or any remedy sought, is related to or would require, fiscal appropriations or funding or financial payment of any sort from the state or a county.

**NEW SECTION. Sec. 3.** For any action or proceeding instituted by the attorney general on behalf of a superior court judge or judges under RCW 43.10.030(2) prior to the effective date of this act, any duty on the part of the attorney general to continue to prosecute shall cease after the effective date of this act.

**NEW SECTION. Sec. 4.** 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 Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Jinkins; Kirby; Klippert; Nealey; Orwall; Roberts and Shea.

MINORITY recommendation: Do not pass. Signed by Representative Goodman.

Referred to Committee on Appropriations Subcommittee on General Government.

### THIRD SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

HB 1902 April 2, 2013  
Prime Sponsor, Representative Holy: Creating intermittent-use trailer license plates. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Fitzgibbon; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; O'Ban; Riccelli; Rodne; Ryu; Sells; Shea; Takko; Tarleton; Uptegrove and Zeiger.

Passed to Committee on Rules for second reading.

HB 1978 April 2, 2013  
Prime Sponsor, Representative Zeiger: Addressing the permitting of certain

transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Fitzgibbon; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; O'Ban; Riccelli; Rodne; Ryu; Sells; Takko; Tarleton; Uptegrove and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representative Shea.

Passed to Committee on Rules for second reading.

HB 1979 April 2, 2013  
Prime Sponsor, Representative Zeiger: Implementing public-private partnership best practices for nontoll transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Fitzgibbon; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; O'Ban; Riccelli; Rodne; Ryu; Sells; Shea; Takko; Tarleton; Uptegrove and Zeiger.

Passed to Committee on Rules for second reading.

HB 1986 April 2, 2013  
Prime Sponsor, Representative O'Ban: Requiring the reporting of highway construction project errors. Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Fitzgibbon; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; O'Ban; Riccelli; Rodne; Sells; Shea; Takko; Tarleton and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representatives Ryu and Uptegrove.

Passed to Committee on Rules for second reading.

ESSB 5157 April 2, 2013  
Prime Sponsor, Committee on Human Services & Corrections: Regulating provision of child care. (REVISED FOR ENGROSSED: Regulating child care subsidies.) Reported by Committee on Early Learning & Human Services

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 43.215 RCW to read as follows:

(1) The department is required to review violations of rules pertaining to subsidy payments. The department shall develop recommendations to increase child care provider compliance with existing rules pertaining to subsidy payments. The department shall report its recommendations to the appropriate committees of the legislature by December 1, 2013.

(2) This section expires December 31, 2013."

Correct the title.

Signed by Representatives Kagi, Chair; Walsh, Ranking Minority Member; Farrell; Goodman; MacEwen; Roberts; Sawyer and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representatives Scott, Assistant Ranking Minority Member and Overstreet.

Passed to Committee on Rules for second reading.

April 2, 2013

SSB 5182 Prime Sponsor, Committee on Transportation: Addressing the disclosure of vehicle owner information. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Lias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Fitzgibbon; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; O'Ban; Riccelli; Rodne; Ryu; Sells; Shea; Takko; Tarleton; Uptegrove and Zeiger.

Passed to Committee on Rules for second reading.

April 2, 2013

SB 5359 Prime Sponsor, Senator Carrell: Concerning mandatory reporting of child abuse or neglect by supervised persons. Reported by Committee on Early Learning & Human Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 26.44.030 and 2012 c 55 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or

cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Organization" includes a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, charitable function, or similar activity in this state whether or not the entity is operated as a nonprofit or for-profit entity.

(iii) "Reasonable cause" means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

(iv) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees,

including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second

licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(13) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.



(14) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(15) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(16) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(17) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(18) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

**Sec. 2.** RCW 26.44.030 and 2012 c 259 s 3 and 2012 c 55 s 1 are each reenacted and amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Organization" includes a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, charitable function, or similar

activity in this state whether or not the entity is operated as a nonprofit or for-profit entity.

(iii) "Reasonable cause" means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

(iv) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports

of child abuse or neglect that are screened in and accepted for departmental response:

(i) Investigation; or

(ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) Poses a risk of "imminent harm" consistent with the definition provided in RCW 13.34.050, which includes, but is not limited to, sexual abuse and sexual exploitation as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW, or by the department of early learning.

(c) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

(12)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(13) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report; however, upon parental agreement, the family assessment response period may be extended up to ninety days;

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian sign an agreement to participate in services before services are initiated that informs the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not sign the consent form.

(14) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(15) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

(16) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(17)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(18) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

(19) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(20) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

NEW SECTION. **Sec. 3.** Section 1 of this act expires December 1, 2013.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect December 1, 2013."

Correct the title.

Signed by Representatives Kagi, Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Farrell; Goodman; MacEwen; Overstreet; Roberts; Sawyer and Zeiger.

Passed to Committee on Rules for second reading.

April 2, 2013

E2SSB 5405 Prime Sponsor, Committee on Ways & Means:  
Concerning extended foster care services.  
Reported by Committee on Early Learning &  
Human Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that the federal fostering connections to success and increasing adoptions act of 2008 provides important new opportunities to increase the impact of state funding through maximizing the amount of federal funding available to promote permanency and positive outcomes for dependent youth.

(2) The legislature also finds that children and adolescents who are legal dependents of Washington state have experienced significant trauma and loss, putting them at increased risk for poor life outcomes. Longitudinal research on the adult functioning of former foster youth indicates a disproportionate likelihood that youth aging out of foster care and those who spent several years in care will experience poor outcomes in a variety of areas, including limited human capital upon which to build economic security and inability to fully take advantage of secondary and postsecondary educational opportunities, untreated mental or behavioral health problems, involvement in the criminal justice and corrections systems, and early parenthood combined with second-generation child welfare involvement.

(3) The legislature further finds that research also demonstrates that access to adequate and appropriate supports during the period of transition from foster care to independence can have significant positive impacts on adult functioning and can improve outcomes relating to educational attainment and postsecondary enrollment, employment and earnings, and reduced rates of teen pregnancies.

**Sec. 2.** RCW 13.34.030 and 2011 1st sp.s. c 36 s 13 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the

child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" means:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(9) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(10) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(11) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children

alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(12) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(13) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(14) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(15) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(16) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(17) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

(18) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(19) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

(20) "Medical condition" means, for the purpose of qualifying for extended foster care services, a short-term or long-term physical or mental health condition as verified and documented by a health care provider.

(21) "Nonminor dependent" means any individual age eighteen to twenty-one years for whom there was an open dependency proceeding at the time that he or she reached the age of eighteen years and who meets the eligibility requirements for extended foster care services authorized under RCW 74.13.031.

(22) "Supervised independent living" may include apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. The department has the discretion to determine on a case-by-case basis which supervised independent living arrangement would be in the best interests of the nonminor dependent.

**Sec. 3.** RCW 13.34.145 and 2011 c 330 s 6 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) When the youth is at least age seventeen years but not older than seventeen years and six months, the department shall provide the

youth with written documentation which explains the availability of extended foster care services and detailed instructions regarding how the youth may access such services after he or she reaches age eighteen years.

(4) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department or supervising agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department or supervising agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department or supervising agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department or supervising agency to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent

living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care. The court will inquire whether the child has been provided information about extended foster care services.

(ii) The permanency plan shall also specifically identify the services, including extended foster care services, where appropriate, that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall:

(i) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(6), and 13.34.096; and

(ii) If the department or supervising agency is recommending a placement other than the child's current placement with a foster parent, relative, or other suitable person, enter a finding as to the reasons for the recommendation for a change in placement.

~~((4))~~ (5) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the supervising agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

~~((5))~~ (6) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

~~((6))~~ (7) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

~~((7))~~ (8) If the court orders the child returned home, casework supervision by the department or supervising agency shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

~~((8))~~ (9) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

~~((9))~~ (10) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection ~~((8))~~ (9) of this section are met.

~~((10))~~ (11) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time

following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department or supervising agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

~~((11))~~ (12) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

~~((12))~~ (13) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**Sec. 4.** RCW 13.34.267 and 2012 c 52 s 4 are each amended to read as follows:

(1) In order to facilitate the delivery of extended foster care services, the court shall postpone for six months the dismissal of a dependency proceeding for any ~~((child))~~ youth who at the age of eighteen years is:

(a) A dependent ((child)) in foster care ((at the age of eighteen years and who, at the time of his or her eighteenth birthday is:)); or

(b) Serving a commitment at a juvenile rehabilitation administration facility and has a release date within six months after reaching age eighteen years.

(2) The six-month postponement under this section is intended to allow a reasonable window of opportunity for an eligible youth to request extended foster care services from the department.

(3) Except as provided in subsection (7) of this section, a youth is eligible for extended foster care services if, at any time during the six-month postponement period, he or she agrees to receive such services and is:

(a) Enrolled in a secondary education program or a secondary education equivalency program; ((or))

(b) Enrolled and participating in a postsecondary academic or postsecondary vocational program, or has applied for and can demonstrate that he or she intends to timely enroll in a postsecondary academic or postsecondary vocational program;

(c) Participating in a program or activity designed to promote employment or remove barriers to employment;

(d) Engaging in employment for eighty hours or more per month; or

(e) Incapable of engaging in any of the activities described in (a) through (d) of this subsection due to a medical condition that is supported by regularly updated information.

~~((2)(a) The six-month postponement under this subsection is intended to allow a reasonable window of opportunity for an eligible youth who reaches the age of eighteen to request extended foster care services from the department or supervising agency.)~~ (4)(a) The court shall dismiss the dependency if by the end of the six-month period the youth:

(i) Has not requested extended foster care services from the department ((by the end of the six-month period)); ((or))

(ii) Is no longer eligible for extended foster care services under RCW 74.13.031((10) at any point during the six-month period);

(iii) Has not been released from his or her commitment to the juvenile rehabilitation administration; or

(iv) Does not have extended foster care services available to him or her pursuant to subsection (7) of this section.

(b) Until the youth requests to participate in the extended foster care program, the department is relieved of any supervisory responsibility for the youth.

~~((3))~~ (5) A youth who participates in extended foster care while completing a secondary education or equivalency program may

continue to receive extended foster care services for the purpose of participating in a postsecondary academic or postsecondary vocational education program if, at the time the secondary education or equivalency program is completed, the youth has applied to and can demonstrate that he or she intends to timely enroll in a postsecondary academic or vocational education program. The dependency shall be dismissed if the youth fails to timely enroll or continue in the postsecondary program, or reaches age twenty-one, whichever is earlier.

~~((4))~~ (6) A youth receiving extended foster care services is a party to the dependency proceeding. The youth's parent or guardian shall be dismissed from the dependency proceeding when the youth reaches the age of eighteen years.

~~((5))~~ (7) If the nonminor dependent meets the criteria described in subsection (3)(c) through (e) of this section, he or she may be eligible to receive extended foster care services pursuant to RCW 74.13.031 to the extent funds are specifically appropriated for this purpose and subject to the nonminor dependent's continuing eligibility and agreement to participate.

(8) The court shall order a youth participating in extended foster care services to be under the placement and care authority of the department, subject to the youth's continuing agreement to participate in extended foster care services. The department may establish foster care rates appropriate to the needs of the youth participating in extended foster care services. The department's placement and care authority over a youth receiving extended foster care services is solely for the purpose of providing services and does not create a cause of action against the department or its employees for any damages caused by the actions of youth receiving extended foster care services.

~~((6))~~ (9) The court shall appoint counsel to represent a youth, as defined in RCW 13.34.030(2)(b), in dependency proceedings under this section.

~~((7))~~ (10) The case plan for and delivery of services to a youth receiving extended foster care services is subject to the review requirements set forth in RCW 13.34.138 and 13.34.145, and should be applied in a developmentally appropriate manner, as they relate to youth age eighteen to twenty-one years. Additionally, the court shall consider:

- (a) Whether the youth is safe in his or her placement;
- (b) Whether the youth continues to be eligible for extended foster care services;
- (c) Whether the current placement is developmentally appropriate for the youth;
- (d) The youth's development of independent living skills; and
- (e) The youth's overall progress toward transitioning to full independence and the projected date for achieving such transition.

~~((8))~~ (11) Prior to the review hearing, the youth's attorney shall indicate whether there are any contested issues and may provide additional information necessary for the court's review.

~~((9))~~ (12) Upon the request of the youth, or when the youth is no longer eligible to receive extended foster care services according to rules adopted by the department, the court shall dismiss the dependency.

**Sec. 5.** RCW 74.13.020 and 2012 c 205 s 12 are each amended to read as follows:

For purposes of this chapter:

(1) "Case management" means convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

- (a) A person less than eighteen years of age; or
- (b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

(6) "Department" means the department of social and health services.

(7) "Extended foster care services" means residential and other support services the department is authorized to provide to foster children. These services may include~~(, but are not limited to,)~~ placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(8) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(9) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(10) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(11) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(12) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(13) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian

tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section. This definition is applicable on or after December 30, 2015.

(14) "Medical condition" means, for the purpose of qualifying for extended foster care services, a short-term or long-term physical or mental health condition as verified and documented by a health care provider.

(15) "Nonminor dependent" means any individual age eighteen to twenty-one years for whom there was an open dependency proceeding at the time that he or she reached the age of eighteen years and who meets the eligibility requirements for extended foster care services authorized under RCW 74.13.031.

(16) "Supervised independent living" may include apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. The department has the discretion to determine on a case-by-case basis which supervised independent living arrangement would be in the best interests of the nonminor dependent.

**Sec. 6.** RCW 74.13.020 and 2012 c 259 s 7 and 2012 c 205 s 12 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Case management" means convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

(a) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

(6) "Department" means the department of social and health services.

(7) "Extended foster care services" means residential and other support services the department is authorized to provide to foster children. These services may include ~~(, but are not limited to,)~~

placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(8) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(9) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(10) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(11) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(12) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(13) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(14) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section. This definition is applicable on or after December 30, 2015.

(15) "Medical condition" means, for the purpose of qualifying for extended foster care services, a short-term or long-term physical or mental health condition as verified and documented by a health care provider.

(16) "Nonminor dependent" means any individual age eighteen to twenty-one years for whom there was an open dependency proceeding at the time that he or she reached the age of eighteen years and who meets the eligibility requirements for extended foster care services authorized under RCW 74.13.031.

(17) "Supervised independent living" may include apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. The department has the discretion to determine on a case-by-case basis which supervised independent living arrangement would be in the best interests of the nonminor dependent.

**Sec. 7.** RCW 74.13.031 and 2012 c 52 s 2 are each amended to read as follows:

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.



(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department and the supervising agencies shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department and supervising agencies are encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department or supervising agencies shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(6) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) The department and supervising agency shall have authority to purchase care for children.

(9) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) The department and supervising agencies shall ~~((have authority to))~~ provide continued extended foster care services to ~~((youth ages eighteen to twenty one years to participate in or complete))~~ nonminor dependents who are:

(i) Enrolled in a secondary education program or a secondary education equivalency program(;;); or

(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program.

(b) Subject to the availability of amounts appropriated for this specific purpose, the department and supervising agencies shall provide continued extended foster care services to nonminor dependents who are:

(i) Participating in a program or activity designed to promote employment or remove barriers to employment;

(ii) Engaged in employment for eighty hours or more per month;

or  
(iii) Incapable of engaging in any of the activities described in (a)(i) or (ii) and (b)(i) through (iii) of this subsection due to a medical condition that is supported by regularly updated information.

(c) To be eligible for extended foster care services under this section, the nonminor dependent must have an open dependency proceeding at the time that he or she reaches age eighteen years pursuant to RCW 13.34.267, and the nonminor dependent must request extended foster care services before reaching age eighteen years and six months. The nonminor dependent serving a commitment at a juvenile rehabilitation facility when he or she reaches age eighteen years must be released from the commitment before he or she reaches age eighteen years and six months.

(d) The department shall develop and implement rules regarding youth eligibility requirements.

(11) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection (10) of this section.

(12) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(13) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this

section all services to be provided by the department under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(14) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(15) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(16) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(17)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

**Sec. 8.** RCW 74.13.031 and 2012 c 259 s 8 and 2012 c 52 s 2 are each reenacted and amended to read as follows:

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the

attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) As provided in RCW 26.44.030(11), the department may respond to a report of child abuse or neglect by using the family assessment response.

(5) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(6) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department and the supervising agencies shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department and supervising agencies are encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department or supervising agencies shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(7) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(8) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(9) The department and supervising agency shall have authority to purchase care for children.

(10) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(11)(a) The department and supervising agencies shall ~~(have authority to)~~ provide continued extended foster care services to ~~((youth ages eighteen to twenty one years to participate in or complete))~~ nonminor dependents who are:

(i) Enrolled in a secondary education program or a secondary education equivalency program(;;); or

(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program.

(b) Subject to the availability of funds appropriated for this specific purpose, the department and supervising agencies shall provide continued extended foster care services to nonminor dependents who are:

(i) Participating in a program or activity designed to promote employment or remove barriers to employment;

(ii) Engaged in employment for eighty hours or more per month; or

(iii) Incapable of engaging in any of the activities described in (a)(i) or (ii) and (b)(i) through (iii) of this subsection due to a medical condition that is supported by regularly updated information.

(c) To be eligible for extended foster care services under this section, the nonminor dependent must have an open dependency proceeding pursuant to RCW 13.34.267 at the time that he or she reaches age eighteen years, and the nonminor dependent must request extended foster care services before reaching age eighteen years and six months. The nonminor dependent serving a commitment at a juvenile rehabilitation facility when he or she reaches age eighteen years must be released from the commitment before he or she reaches age eighteen years and six months.

(d) The department shall develop and implement rules regarding youth eligibility requirements.

(12) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection (11) of this section.

(13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(14) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department under subsections (4), (7), and (8) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(15) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(16) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(17) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department and supervising agencies are performing the duties and meeting the

obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

**NEW SECTION. Sec. 9.** This act applies prospectively only and not retroactively. It applies to:

(1) Dependency matters that have an open court case on the effective date of this section; and

(2) Dependency matters for which a petition is filed on or after the effective date of this section.

**NEW SECTION. Sec. 10.** Sections 5 and 7 of this act expire December 1, 2013.

**NEW SECTION. Sec. 11.** Sections 6 and 8 of this act take effect December 1, 2013."

Correct the title.

Signed by Representatives Kagi, Chair; Walsh, Ranking Minority Member; Farrell; Goodman; MacEwen; Roberts; Sawyer and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representatives Scott, Assistant Ranking Minority Member and Overstreet.

Referred to Committee on Appropriations.

April 2, 2013

SSB 5565

Prime Sponsor, Committee on Human Services & Corrections: Concerning background checks for individuals seeking a license under chapter 74.13 RCW or unsupervised access to children. Reported by Committee on Early Learning & Human Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that the goals of the child welfare system are the safety, permanence, and well-being of the children it serves. The legislature further recognizes the importance of background checks conducted by the department of social and health services to assess an individual's character, suitability, and competence to determine whether an individual is appropriate to be provided a license under chapter 74.13 RCW or have unsupervised access to children. The legislature does not intend to change the current secretary of social and health services' list of crimes and negative actions. However, the legislature believes that

either an unreasonable delay in a determination of whether to approve or deny a license under chapter 74.13 RCW or unsupervised access to children, when such unreasonable delay or denial is based solely on a crime or civil infraction not directly related to child safety, is not appropriate and is not in the best interest of the children being served by the child welfare system.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.13 RCW to read as follows:

(1) In determining the character, suitability, and competence of an individual, the department may not:

(a) Deny or delay a license or approval of unsupervised access to children to an individual solely because of a crime or civil infraction involving the individual or entity revealed in the background check process that is not on the secretary's list of crimes and negative actions and is not related directly to child safety, permanence, or well-being; or

(b) Delay the issuance of a license or approval of unsupervised access to children by requiring the individual to obtain records relating to a crime or civil infraction revealed in the background check process that is not on the secretary's list of crimes and negative actions and is not related directly to child safety, permanence, or well-being and is not a permanent disqualifier pursuant to department rule.

(2) If the department determines that an individual does not possess the character, suitability, or competence to provide care or have unsupervised access to a child, it must provide the reasons for its decision in writing with copies of the records or documents related to its decision to the individual within ten days of making the decision.

(3) For purposes of this section, "individual" means a relative as defined in RCW 74.15.020(2)(a), an "other suitable person" under chapter 13.34 RCW, a person pursuing licensing as a foster parent, or a person employed or seeking employment by a business or organization licensed by the department or with whom the department has a contract to provide care, supervision, case management, or treatment of children in the care of the department. "Individual" does not include long-term care workers defined in RCW 74.39A.009(17)(a) whose background checks are conducted as provided in RCW 74.39A.056.

(4) The department or its officers, agents, or employees may not be held civilly liable based upon its decision to grant or deny unsupervised access to children if the background information it relied upon at the time the decision was made did not indicate that child safety, permanence, or well-being would be a concern.

**NEW SECTION. Sec. 3.** A new section is added to chapter 74.13 RCW to read as follows:

The department shall charge a fee to process a request made by a person in another state for an individual's child abuse or neglect history in this state or other background history on the individual possessed by the department. All proceeds from the fees collected must go directly to aiding the cost associated with the department conducting background checks.

**Sec. 4.** RCW 74.13.020 and 2012 c 205 s 12 are each amended to read as follows:

For purposes of this chapter:

(1) "Case management" means convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

(a) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

(6) "Department" means the department of social and health services.

(7) "Extended foster care services" means residential and other support services the department is authorized to provide to foster children. These services include, but are not limited to, placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(8) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(9) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(10) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(11) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(12) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(13) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into

a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section. This definition is applicable on or after December 30, 2015.

(14) "Unsupervised" has the same meaning as in RCW 43.43.830.

**Sec. 5.** RCW 74.13.020 and 2012 c 259 s 7 and 2012 c 205 s 12 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Case management" means convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

(a) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

(6) "Department" means the department of social and health services.

(7) "Extended foster care services" means residential and other support services the department is authorized to provide to foster children. These services include, but are not limited to, placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(8) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(9) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(10) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(11) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(12) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(13) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(14) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section. This definition is applicable on or after December 30, 2015.

(15) "Unsupervised" has the same meaning as in RCW 43.43.830.

**Sec. 6.** RCW 13.34.065 and 2011 c 309 s 24 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, in those areas in which child welfare services are being provided by a supervising agency, the supervising agency shall assume case management responsibilities of the case. The department or supervising agency shall submit a recommendation to the court as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department or supervising agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in RCW 13.38.040, whether the provisions of the federal Indian child welfare act or chapter 13.38 RCW apply, and whether there is compliance with the federal Indian child welfare act and chapter 13.38 RCW, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care

hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. If such relative or other suitable person appears otherwise suitable and competent to provide care and treatment, the fingerprint-based background check need not be completed before placement, but as soon as possible after placement. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department or supervising agency in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

(d) If a relative or other suitable person is not available, the court shall order continued shelter care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or supervising agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (b) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**NEW SECTION. Sec. 7.** (1) The legislature finds that any person who has had a founded finding of child abuse or neglect or has been involved in a dependency action involving one or more of his or her children is able to turn his or her life around and establish good parenting relationships with his or her children. Unfortunately, his or her prior involvement with child protective services or the dependency court can hamper such a person's ability to find future employment, especially if the employment involves unsupervised access to children or other vulnerable populations.

(2) The legislature further finds that a number of states permit convicted offenders to seek a certificate of rehabilitation in certain situations. Generally, the certificate declares that a convicted individual is rehabilitated after completing a prison sentence or being released on parole or supervision. Usually, the applicant for a certificate must prove that he or she has met certain criteria before a certificate will be awarded. Such a certificate often restores certain rights to the applicant and makes him or her eligible for certain employment for which he or she would not be eligible without the certificate.

(3) A nonprofit with expertise in veteran parent programs shall convene a work group in consultation with the department of social and health services to explore options, including a certificate of rehabilitation, for addressing the impact of founded complaints on the ability of rehabilitated individuals to gain employment or care for children, including volunteer activities. The work group must contain, but not be limited to, persons representing the following: The courts, veteran parents, parent attorneys, foster parents, relative caregivers, kinship caregivers, child-placing agencies, the attorney general's office, the governor's policy office, the office of public defense parent representation program, and the legislature.

(4) The work group shall report recommendations to the appropriate committees of the legislature no later than December 31, 2013.

**NEW SECTION. Sec. 8.** The department of social and health services shall adopt all necessary rules to implement this act.

**NEW SECTION. Sec. 9.** Section 4 of this act expires December 1, 2013.

**NEW SECTION. Sec. 10.** Section 5 of this act takes effect December 1, 2013."

Correct the title.

Signed by Representatives Kagi, Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Farrell; Goodman; MacEwen; Roberts; Sawyer and Zeiger.

MINORITY recommendation: Without recommendation.  
Signed by Representative Overstreet.

Referred to Committee on Appropriations Subcommittee on Health & Human Services.

April 2, 2013

**SSB 5591** Prime Sponsor, Committee on Transportation:  
Concerning confidential license plates, drivers' licenses, identicards, and vessel registrations.  
Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Fitzgibbon; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; O'Ban; Riccelli; Rodne; Ryu; Sells; Shea; Takko; Tarleton; Upthegrove and Zeiger.

Passed to Committee on Rules for second reading.

April 2, 2013

**SSB 5595** Prime Sponsor, Committee on Ways & Means:  
Concerning child care reform. Reported by  
Committee on Early Learning & Human Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.010 and 2011 c 295 s 3 and 2011 c 78 s 1 are each reenacted and amended to read as follows:

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

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child day care provider who regularly provides child day care and early learning services for

not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection (~~((2)(a))~~), even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing child care for periods of less than twenty-four hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:

(i) Activities other than employment; or

(ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;

(i) Any agency having been in operation in this state ten years before June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(j) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(l) An agency that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(5) "Department" means the department of early learning.

(6) "Director" means the director of the department.

(7) "Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for participation.

(8) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

~~((8))~~ (9) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

~~((9))~~ (10) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

~~((10))~~ (11) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

~~((11))~~ (12) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

~~((12))~~ (13) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

NEW SECTION. Sec. 2. A new section is added to chapter 43.215 RCW to read as follows:

(1) The early achievers program is designed to accomplish the following goals:

(a) Provide parents clear and easily accessible information about quality child care and early education programs;

(b) Improve early learning programs throughout Washington state;

(c) Increase school readiness for children;

(d) Close the disparity between segments of the population with regard to access to quality care; and

(e) Establish a uniform set of expectations and standards that define, measure, and improve the quality of the early learning environment.

(2) All licensed and certified child care programs may enroll in the early achievers program. Child care providers may voluntarily decide whether to participate.

(3) There are five quality levels in the early achievers program.

(4) The department shall prepare and implement rules in accordance with the early achievers program and this section.

NEW SECTION. Sec. 3. A new section is added to chapter 43.215 RCW to read as follows:

(1) The standards and guidelines described in this section are intended for the guidance of the department and the department of social and health services. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party in litigation with the state.

(2) When providing services to parents applying for or receiving working connections child care benefits, the department must provide training to departmental employees on professionalism.



(3) When providing services to parents applying for or receiving working connections child care benefits, the department of social and health services has the following responsibilities:

(a) To return all calls from parents receiving working connections child care benefits within two business days of receiving the call;

(b) To develop a process by which parents receiving working connections child care benefits can submit required forms and information electronically by June 30, 2015;

(c) To notify providers and parents ten days before the loss of working connections child care benefits; and

(d) To provide parents with a document that explains in detail and in easily understood language what services they are eligible for, how they can appeal an adverse decision, and the parents' responsibilities in obtaining and maintaining eligibility for working connections child care.

(4) The department shall convene a parent and provider oversight board.

(a) The oversight board must, at a minimum, consist of the following:

(i) Five parents receiving working connections child care benefits from diverse geographic locations; and

(ii) Five working connections child care providers from diverse geographic locations.

(b) The oversight board shall meet at least three times a year.

(c) The purpose of the oversight board is to listen to issues raised by parents receiving working connections child care and child care providers and report to the department on recommended policy changes to address the issues raised.

(d) The department is not responsible for any of the expenses incurred by the oversight board members.

**NEW SECTION. Sec. 4.** (1)(a) A legislative task force on child care improvements for the future is established with members as provided in this subsection.

(i) The president of the senate shall appoint two members from each of the two largest caucuses of the senate.

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

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

(A) The department of early learning;

(B) The department of social and health services;

(C) The early learning advisory committee;

(D) Thrive by five;

(E) Private pay child care consumers;

(F) Child care consumers receiving a subsidy;

(G) Family child care providers;

(H) Child care center providers;

(I) Exempt child care providers;

(J) The collective bargaining unit representing child care providers;

(K) School-age child care providers;

(L) Child care aware; and

(M) The Washington state association of head start and the early childhood education and assistance program.

(b) The task force shall choose its cochairs from among its legislative leadership. The members of the majority party in each house shall convene the first meeting.

(2) The task force shall address the following issues:

(a) The creation of a tiered reimbursement model that works for both consumers and providers and provides incentives for quality child care across communities;

(b) The long-term administrative changes that will help consumers enroll their children in child care accurately and efficiently;

(c) The expansion of outreach to consumers of child care;

(d) Administrative improvements and structural changes to the payment system;

(e) Increased and stable child care funding as a pivotal early learning tool;

(f) An increase in reimbursement rates to increase low-income families' access to high-quality providers;

(g) An increase in the eligibility threshold to achieve cross-subsidies and allow parents to grow professionally without losing affordable child care; and

(h) A further graduation of the copay scale to eliminate the cliff that occurs at subsidy cut off.

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

(4) The task force shall report its findings and recommendations to the governor and the appropriate committees of the legislature no later than December 31, 2013.

(5) This section expires July 1, 2014.

**NEW SECTION. Sec. 5.** (1) The legislature finds that the Aclara group report on the eligibility requirements for working connections child care which came from the pedagogy of lean management and focused on identifying and eliminating nonvalue added work should be followed. The legislature further finds that, following some of the recommendations in the report, would result in simplifying and streamlining the child care system to improve access and customer service without decreasing the program's integrity.

(2) By December 1, 2013, the department and the department of social and health services shall accomplish the following:

(a) Eliminate the current custody/visitation policy and design a subsidy system that is flexible and accounts for small fluctuations in family circumstances;

(b) Create broad authorization categories so that relatively minor changes in parents' work schedule does not require changes in authorization;

(c) Establish rules to specify that parents who receive working connections child care benefits and participate in one hundred ten hours or more of approved work or related activities are eligible for full-time child care services; and

(d) Clarify and simplify the requirement to count child support as income."

Correct the title.

Signed by Representatives Kagi, Chair; Walsh, Ranking Minority Member; Farrell; Goodman; Roberts and Sawyer.

MINORITY recommendation: Do not pass. Signed by Representatives Scott, Assistant Ranking Minority Member; MacEwen; Overstreet and Zeiger.

Referred to Committee on Appropriations.

April 1, 2013

ESB 5616

Prime Sponsor, Senator Sheldon: Concerning the use of farm vehicles on public highways. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.16A.420 and 2010 c 161 s 409 and 2010 c 8 s 9010 are each reenacted and amended to read as follows:

(1) A farmer shall apply to the department, county auditor or other agent, or subagent appointed by the director for a farm exempt

decals for a farm vehicle if the farm vehicle is exempt under RCW 46.16A.080(3). The farm exempt decal:

(a) Allows the farm vehicle to be operated ~~((within a radius of fifteen miles of the farm where it is principally used or garaged))~~ on public highways as identified under RCW 46.16A.080(3);

(b) Must be displayed on the farm vehicle so that it is clearly visible from outside of the farm vehicle; ~~((and))~~

(c) Must identify that the farm vehicle is exempt from the registration requirements of this chapter; and

(d) Must be visible from the rear of the farm vehicle. This requirement for a farm exempt decal to be visible from the rear of the vehicle applies only to farm exempt decals issued after the effective date of this section.

(2) A farmer or the farmer's representative must apply for a farm exempt decal on a form furnished or approved by the department. The application must show:

(a) The name and address of the person who is the owner of the vehicle;

(b) A full description of the vehicle, including its make, model, year, the motor number or the vehicle identification number if the vehicle is a motor vehicle, or the serial number if the vehicle is a trailer;

(c) The purpose for which the vehicle is principally used;

(d) The place where the farm vehicle is principally used or garaged; and

(e) Other information as required by the department upon application.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under RCW 46.17.325 when issuing a farm exempt decal.

(4) A farm exempt decal may not be renewed. The status as an exempt vehicle continues until suspended or revoked for misuse, or when the vehicle is no longer used as a farm vehicle.

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

**Sec. 2.** RCW 46.16A.080 and 2011 c 171 s 45 are each amended to read as follows:

The following vehicles are not required to be registered under this chapter:

(1) Converter gears used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle;

(2) Electric-assisted bicycles;

(3)(a) ~~((Farm implements, tractors, trailers, and other))~~ Farm vehicles ((+)) operated within a radius of ((fifteen)) twenty-five miles of the farm where it is principally used or garaged for the purposes of traveling between farms or other locations to engage in activities that support farming operations, (b) farm tractors and farm implements including trailers designed as cook or bunk houses~~((+))~~ used exclusively for animal herding~~((and ((+)))~~ temporarily operating or drawn upon the public highways, and ~~((+))~~ (c) trailers used exclusively to transport farm implements from one farm to another during daylight hours or at night when the trailer is equipped with lights that comply with applicable law;

(4) Forklifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses they serve;

(5) Golf carts, as defined in RCW 46.04.1945, operating within a designated golf cart zone as described in RCW 46.08.175;

(6) Motor vehicles operated solely within a national recreation area that is not accessible by a state highway, including motorcycles, motor homes, passenger cars, and sport utility vehicles. This exemption applies only after initial registration;

(7) Motorized foot scooters;

(8) Nurse rigs or equipment auxiliary for the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(9) Off-road vehicles operated on a street, road, or highway as authorized under RCW 46.09.360, or nonhighway roads under RCW 46.09.450;

(10) Special highway construction equipment;

(11) Dump trucks and tractor-dump trailer combinations that are:

(a) Designed and used primarily for construction work on highways;

(b) Not designed or used primarily for the transportation of persons or property on a public highway; and

(c) Only incidentally operated or moved over the highways;

(12) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation;

(13) Tow dollies;

(14) Trams used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have average daily traffic of not more than fifteen thousand vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another; and

(15) Vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

**Sec. 3.** RCW 46.04.181 and 2012 c 130 s 1 are each amended to read as follows:

"Farm vehicle" means any vehicle other than a farm tractor or farm implement which is: (1) Designed and/or used primarily in agricultural pursuits on farms for the purpose of transporting machinery, equipment, implements, farm products, supplies and/or farm labor thereon and is only incidentally operated on or moved along public highways for the purpose of going from one farm to another or between locations supporting farming operations; or (2) for purposes of RCW 46.25.050, used to transport agricultural products, farm machinery, farm supplies, or any combination of these materials to or from a farm."

Correct the title.

Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Bergquist; Farrell; Fitzgibbon; Freeman; Habib; Hayes; Johnson; Klippert; Kochmar; Kretz; Kristiansen; Moeller; Morris; O'Ban; Riccelli; Rodne; Ryu; Sells; Shea; Takko; Tarleton; Upthegrove and Zeiger.

Passed to Committee on Rules for second reading.

April 1, 2013

SSB 5761

Prime Sponsor, Committee on Transportation:  
Concerning outdoor advertising sign fees, labels,  
and prohibitions. Reported by Committee on  
Transportation

MAJORITY recommendation: Do pass as amended. Signed by Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Bergquist; Farrell; Fitzgibbon; Freeman; Habib; Johnson; Moeller; Morris; Riccelli; Ryu; Sells; Takko and Tarleton.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel; Hayes; Klippert; Kochmar; Kretz; Kristiansen; O'Ban; Rodne; Shea and Zeiger.

Passed to Committee on Rules for second reading.

#### FOURTH SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

April 3, 2013

SB 5059 Prime Sponsor, Senator Carrell: Concerning the crime of rendering criminal assistance. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9A.76.050 and 2011 c 336 s 400 are each amended to read as follows:

As used in RCW 9A.76.070, 9A.76.080, and 9A.76.090, a person "renders criminal assistance" if, with intent to prevent, hinder, or delay the apprehension or prosecution of another person who he or she knows has committed a crime or juvenile offense or is being sought by law enforcement officials for the commission of a crime or juvenile offense or has escaped from a detention facility, he or she:

- (1) Harbors or conceals such person; or
- (2) Warns such person of impending discovery or apprehension; or
- (3) Provides such person with money, transportation, disguise, or other means of avoiding discovery or apprehension; or
- (4) Prevents or obstructs, by use of force, deception, or threat, anyone from performing an act that might aid in the discovery or apprehension of such person; or
- (5) Conceals, alters, or destroys any physical evidence that might aid in the discovery or apprehension of such person; or
- (6) Provides such person with a weapon.

It is not a defense that the person's knowledge of the underlying crime or juvenile offense committed by the person receiving assistance was nonspecific or based upon secondhand information.

Sec. 2. RCW 9.94A.535 and 2011 c 87 s 1 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

- (1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose.

(j) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury -Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first or second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

(bb) The current offense involved paying to view, over the internet in violation of RCW 9.68A.075, depictions of a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(cc) The offense was intentionally committed because the defendant perceived the victim to be homeless, as defined in RCW 9.94A.030.

(4) For the purpose of alleging and sentencing to an aggravating or mitigating factor of a current offense involving a violation of RCW 9A.76.070, the terms "victim of the offense" or "victims of the offense" shall include the victim or victims of the underlying crime committed by the person to whom criminal assistance was rendered only if the person rendering assistance knew the circumstances of the underlying crime."

Correct the title.

Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Hope; Moscoso; Pettigrew; Ross and Takko.

Passed to Committee on Rules for second reading.

April 3, 2013

**ESB 5105** Prime Sponsor, Senator Dammeier: Asserting conditions under which the department of corrections provides rental vouchers to a registered sex offender. (REVISED FOR ENGROSSED: Asserting conditions under which the department of corrections provides rental vouchers to an offender. ) Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.729 and 2011 1st sp.s. c 40 s 4 are each amended to read as follows:

(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. The department may approve a jail certification from a correctional agency that calculates earned release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence.

(2) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(c) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in (c)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

(d) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(c) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(c) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who will be supervised by the department pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(5);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan. ~~((The))~~

A voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) The department shall maintain a list of housing providers that meets the requirements of section 2 of this act. If more than two voucher recipients will be residing per dwelling unit, as defined in RCW 59.18.030, rental vouchers for those recipients may only be paid to a housing provider on the department's list;

(f) For each offender who is the recipient of a rental voucher, the department shall ~~((include, concurrent with the data that the department otherwise obtains and records, the housing status of the offender for the duration of the offender's supervision))~~ gather data as recommended by the Washington state institute for public policy in order to best demonstrate whether rental vouchers are effective in reducing recidivism.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

**NEW SECTION. Sec. 2.** A new section is added to chapter 72.09 RCW to read as follows:

(1) A housing provider may be placed on a list with the department to receive rental vouchers under RCW 9.94A.729 in accordance with the provisions of this section.

(2) For living environments with between four and eight beds, or a greater number of individuals if permitted by local code, the department shall provide transition support that verifies an offender is participating in programming or services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, development of positive living skills, or employment programming. In addition, when selecting housing providers, the department shall consider the compatibility of the proposed offender housing with the surrounding neighborhood and underlying zoning. The department shall adopt procedures to limit the concentration of housing providers who provide housing to sex offenders in a single neighborhood or area.

(3)(a) The department shall provide the local law and justice council, county sheriff, or, if such housing is located within a city, a city's chief law enforcement officer with notice anytime a housing provider or new housing location requests to be or is added to the list within that county.

(b) The county or city local government may provide the department with a community impact statement which includes the number and location of other special needs housing in the neighborhood and a review of services and supports in the area to assist offenders in their transition. If a community impact statement is provided to the department within ten business days of the notice of a new housing provider or housing location request, the department shall consider the community impact statement in determining whether to add the provider to the list and, if the provider is added, shall include the community impact statement in the notice that a provider is added to the list within that county.

(4) If a certificate of inspection, as provided in RCW 59.18.125, is required by local regulation and the local government does not have a current certificate of inspection on file, the local government shall have ten business days from the later of (a) receipt of notice from the department as provided in subsection (3) of this section; or (b) from the date the local government is given access to the dwelling unit to conduct an inspection or reinspection to issue a certificate. This section is deemed satisfied if a local government does not issue a timely certificate of inspection.

(5)(a) If, within ten business days of receipt of a notice from the department of a new location or new housing provider, the county or city determines that the housing is in a neighborhood with an existing concentration of special needs housing, including but not limited to offender reentry housing, retirement homes, assisted living, emergency or transitional housing, or adult family homes, the county or city may request that the department program administrator remove the new location or new housing provider from the list.

(b) This subsection does not apply to housing providers approved by the department to receive rental vouchers on the effective date of this section.

(6) The county or city may at any time request a housing provider be removed from the list if it provides information to the department that:

(a) It has determined that the housing does not comply with state and local fire and building codes or applicable zoning and development regulations in effect at the time the housing provider first began receiving housing vouchers; or

(b) The housing provider is not complying with the provisions of this section.

(7) After receiving a request to remove a housing provider from the county or city, the department shall immediately notify the provider of the concerns and request that the provider demonstrate that it is in compliance with the provisions of this section. If, after ten days' written notice, the housing provider cannot demonstrate to the department that it is in compliance with the reasons for the county's or city's request for removal, the department shall remove the housing provider from the list.

(8) A housing provider who provides housing pursuant to this section is not liable for civil damages arising from the criminal conduct of an offender to any greater extent than a regular tenant, and no special duties are created under this section."

Correct the title.

Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Hope; Moscoso; Pettigrew; Ross and Takko.

Referred to Committee on Appropriations Subcommittee on General Government.

April 3, 2013

**ESSB 5178** Prime Sponsor, Committee on Law & Justice:  
Modifying organized retail theft provisions.  
Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.56.350 and 2009 c 431 s 15 are each amended to read as follows:

(1) A person is guilty of organized retail theft if he or she:

(a) Commits theft of property with a value of at least seven hundred fifty dollars from a mercantile establishment with an accomplice;

(b) Possesses stolen property, as defined in RCW 9A.56.140, with a value of at least seven hundred fifty dollars from a mercantile establishment with an accomplice; ~~((or))~~

(c) Commits theft of property with a cumulative value of at least seven hundred fifty dollars from one or more mercantile establishments within a period of up to one hundred eighty days; or

(d) Commits theft of property with a cumulative value of at least seven hundred fifty dollars from a mercantile establishment with no less than six accomplices and makes or receives at least one electronic communication seeking participation in the theft in the course of planning or commission of the theft. For the purposes of this subsection, "electronic communication" has the same meaning as defined in RCW 9.61.260(5).

(2) A person is guilty of organized retail theft in the first degree if the property stolen or possessed has a value of five thousand dollars or more. Organized retail theft in the first degree is a class B felony.

(3) A person is guilty of organized retail theft in the second degree if the property stolen or possessed has a value of at least seven

hundred fifty dollars, but less than five thousand dollars. Organized retail theft in the second degree is a class C felony.

(4) A first offense of organized retail theft under subsection (1)(d) of this section is a gross misdemeanor. A second or subsequent offense of organized retail theft under subsection (1)(d) of this section is a class C felony punishable under RCW 9A.20.021.

(5) For purposes of this section, a series of thefts committed by the same person from one or more mercantile establishments over a period of one hundred eighty days may be aggregated in one count and the sum of the value of all the property shall be the value considered in determining the degree of the organized retail theft involved. Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which any one of the thefts occurred. For purposes of subsection (1)(d) of this section, thefts committed by the principal and accomplices may be aggregated into one count and the value of all the property shall be the value considered in determining the degree of organized retail theft involved.

~~((5))~~ (6) The mercantile establishment or establishments whose property is alleged to have been stolen may request that the charge be aggregated with other thefts of property about which the mercantile establishment or establishments is aware. In the event a request to aggregate the prosecution is declined, the mercantile establishment or establishments shall be promptly advised by the prosecuting jurisdiction making the decision to decline aggregating the prosecution of the decision and the reasons for such decision."

Correct the title.

Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Hope; Moscoso; Pettigrew; Ross and Takko.

Referred to Committee on Appropriations Subcommittee on General Government.

April 3, 2013

SB 5297 Prime Sponsor, Senator Braun: Concerning coal transition power. Reported by Committee on Environment

MAJORITY recommendation: Do pass. Signed by Representatives Upthegrove, Chair; Short, Ranking Minority Member; Pike, Assistant Ranking Minority Member; Crouse; Morris; Nealey; Overstreet and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives McCoy, Vice Chair; Farrell; Fey; Kagi and Liias.

Passed to Committee on Rules for second reading.

April 3, 2013

SSB 5381 Prime Sponsor, Committee on Governmental Operations: Limiting use of cellular devices by state employees. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Representatives Hunt, Chair; Bergquist, Vice Chair; Buys, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Alexander; Carlyle; Fitzgibbon; Manweller; Orwall and Van De Wege.

Passed to Committee on Rules for second reading.

April 3, 2013

SSB 5437 Prime Sponsor, Committee on Law & Justice: Regarding boating safety. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 79A.60.040 and 1998 c 213 s 7 are each amended to read as follows:

(1) It ~~((shall be))~~ is unlawful for any person to operate a vessel in a reckless manner.

(2) It ~~((shall be a violation))~~ is unlawful for a person to operate a vessel while under the influence of intoxicating liquor, marijuana, or any drug. A person is considered to be under the influence of intoxicating liquor, marijuana, or any drug if, within two hours of operating a vessel:

(a) The person has an alcohol concentration of 0.08 ~~((grams))~~ higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has ~~((0.08 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's blood made under RCW 46.61.506))~~ a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) The person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

(d) The person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

(3) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

~~((A person cited under this subsection may upon request be given a breath test for breath alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting officer shall administer field sobriety tests when circumstances permit.~~

(4) Any person who operates a vessel within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of the person's breath or blood for the purpose of determining the alcohol concentration, THC concentration, or presence of any drug in the person's breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of intoxicating liquor, marijuana, or any drug. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood. An arresting officer may administer field sobriety tests when circumstances permit.

(5) The test or tests of breath must be administered pursuant to RCW 46.20.308. Where the officer has reasonable grounds to believe that the person is under the influence of a drug, or where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample, or where the person is being

treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility, a blood test must be administered by a qualified person as provided in RCW 46.61.506(5). The officer shall warn the person that if the person refuses to take the test, the person will be issued a class 1 civil infraction under RCW 7.80.120.

~~(6) A violation of subsection (1) of this section is a misdemeanor((punishable as provided under RCW 9.92.030)). A violation of subsection (2) of this section is a gross misdemeanor.~~ In addition to the statutory penalties imposed, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

**NEW SECTION. Sec. 2.** A new section is added to chapter 79A.60 RCW to read as follows:

(1) The refusal of a person to submit to a test of the alcohol concentration, THC concentration, or presence of any drug in the person's blood or breath is not admissible into evidence at a subsequent criminal trial.

(2) A person's refusal to submit to a test or tests pursuant to RCW 79A.60.040 constitutes a class 1 civil infraction under RCW 7.80.120.

**Sec. 3.** RCW 7.80.120 and 2003 c 365 s 3 and 2003 c 337 s 4 are each reenacted and amended to read as follows:

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be two hundred fifty dollars, not including statutory assessments, except for an infraction of state law involving (i) potentially dangerous litter as specified in RCW 70.93.060(4) (and an infraction of state law involving) or violent video or computer games under RCW 9.91.180, in which case the maximum penalty and default amount is five hundred dollars; or (ii) a person's refusal to submit to a test or tests pursuant to RCW 79A.60.040 and section 2 of this act, in which case the maximum penalty and default amount is one thousand dollars;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be one hundred twenty-five dollars, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be fifty dollars, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be twenty-five dollars, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

**Sec. 4.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through ~~((4))~~ (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross

misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

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

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

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

(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

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

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

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

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

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

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

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

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle



involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

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

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

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

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

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

((8)) (9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

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

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

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

((11)) (12) Except as specifically provided in subsections (2), (3), (4), and ((6)) (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

((12)) (13) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or ((8)) (9) of this section if the police officer acts in good faith and without malice.

**NEW SECTION. Sec. 5.** A new section is added to chapter 79A.60 RCW to read as follows:

(1) No person who has vessels for hire, or the agent or employee thereof, shall rent, lease, charter, or otherwise permit the use of a vessel, unless the person:

(a) Displays the vessel registration numbers and a valid decal on the vessel hull as required by RCW 88.02.550(1);

(b) Keeps a copy of the vessel registration certificate aboard the vessel, in compliance with RCW 88.02.340;

(c) Displays a carbon monoxide decal on the vessel as required by RCW 88.02.390(2) if the vessel is motor-driven and is not a personal watercraft;

(d) Provides a copy of the rental agreement to be kept aboard during the rental, lease, charter, or use period for vessels required under chapter 88.02 RCW to be registered;

(e) Ensures that the vessel, if motor-propelled, meets the muffler or underwater exhaust system requirement in RCW 79A.60.130;

(f) Outfits the vessel with the quantity and type of personal floatation devices required by RCW 79A.60.140 and 79A.60.160 for the number and ages of the people who will use the vessel;

(g) Explains the personal floatation device requirements to the person renting, leasing, chartering, or otherwise using the vessel;

(h) Equips the vessel with a skier-down flag, and explains observer and personal floatation requirements of RCW 79A.60.170, if the persons renting, leasing, chartering, or otherwise using the vessel will be waterskiing;

(i) If the vessel is a personal watercraft, provides a personal floatation device and a lanyard attached to an engine cutoff switch for the operator to wear at all times when operating the personal watercraft, as required by RCW 79A.60.190;

(j) Reviews with the person operating the vessel, and all other persons who the operator may permit to operate the vessel, all the information contained in the motor vessel safety operating and equipment checklist prescribed by the Washington state parks and recreation commission and required under RCW 79A.60.640(6); and

(k) Provides all other safety equipment required by RCW 79A.60.110 and referenced in the motor vessel safety operating and equipment checklist prescribed by the Washington state parks and recreation commission and required under RCW 79A.60.640(6).

(2) This section does not apply to fishing guides and charter boat operators who have a United States coast guard operator's license and are operating on navigable waters, and people who act in the capacity of a paid whitewater river outfitter or guide, or who operate a vessel carrying passengers for hire on whitewater rivers in this state.

(3) As provided in RCW 79A.60.020, a violation of this section is a civil infraction punishable under chapter 7.84 RCW, unless:

(a) The violation is a violation of RCW 88.02.550, which is punished as a class 2 civil infraction; or

(b) The current violation is the person's third violation of the same provision of this chapter during the past three hundred sixty-five days. If it is the person's third violation, then it must be punished as a misdemeanor under RCW 9.92.030.

**Sec. 6.** RCW 79A.60.150 and 1993 c 244 s 13 are each amended to read as follows:

If ((an infraction is issued under this chapter because a vessel does not contain the required equipment and if the operator is not the owner of the vessel, but is operating the vessel with the express or implied permission of the owner, then either or both operator or owner may be cited for the infraction)) a vessel does not contain the safety equipment required under this chapter and the rules of the commission, and the operator is not the owner of the vessel but is operating the vessel with the express or implied permission of the owner, then either the owner or the operator, or both, may be cited for the applicable infraction or charged with the applicable crime.

**NEW SECTION. Sec. 7.** (1) A study group is established to assess the effectiveness of current legislation, including this act, in reducing the incidence of boating under the influence.

(2) The study group shall consist of the following members:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) The director of the department of fish and wildlife or the director's designee;

(d) The director of the state parks and recreation commission or the director's designee;

(e) One representative from the Washington association of sheriffs and police chiefs;

(f) One representative from the Washington association of prosecuting attorneys; and

(g) One representative from the Washington defenders' association or the Washington association of criminal defense lawyers.

(3) The director of the department of fish and wildlife or the director's designee shall convene the initial meeting of the study group and serve as chair of the study group.

(4) At a minimum, the study group shall research, review, and make recommendations on the following:

(a) Regional and national approaches to boating regulation and implied consent to breath and blood testing;

(b) The potential benefits, costs, and complications of creating a regulatory or licensing system governing boating in Washington, including ways the current vessel registration system and boater education card requirement can be utilized to improve boater awareness of and compliance with laws prohibiting boating under the influence; and

(c) Obstacles to successful prosecutions of boating under the influence in Washington state.

(5) The study group shall compile its findings and recommendations into a final report and provide its report to the legislature and governor by December 1, 2013.

(6) The study group shall function within existing resources and no specific budget may be provided to complete the study. The participants of the study group are encouraged to donate their time to offset any costs.

(7) Staff support for the study group must be provided by the department of fish and wildlife.

(8) This section expires January 1, 2014."

Correct the title.

Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Hope; Moscoso; Pettigrew; Ross and Takko.

Referred to Committee on Appropriations Subcommittee on General Government.

April 3, 2013

ESB 5484 Prime Sponsor, Senator Kline: Concerning assault in the third degree occurring in areas used in connection with court proceedings. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.36.031 and 2011 c 336 s 359 and 2011 c 238 s 1 are each reenacted and amended to read as follows:

(1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself, herself, or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver, the immediate supervisor of a transit operator or driver, a mechanic, or a security officer, by a public or private transit company or a contracted transit service provider, while that person is performing his or her official duties at the time of the assault; or

(c) Assaults a school bus driver, the immediate supervisor of a driver, a mechanic, or a security officer, employed by a school district transportation service or a private company under contract for transportation services with a school district, while the person is performing his or her official duties at the time of the assault; or

(d) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(e) Assaults a firefighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who was performing his or her official duties at the time of the assault; or

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault; or

(h) Assaults a peace officer with a projectile stun gun; or

(i) Assaults a nurse, physician, or health care provider who was performing his or her nursing or health care duties at the time of the assault. For purposes of this subsection: "Nurse" means a person licensed under chapter 18.79 RCW; "physician" means a person licensed under chapter 18.57 or 18.71 RCW; and "health care provider" means a person certified under chapter 18.71 or 18.73 RCW who performs emergency medical services or a person regulated under Title 18 RCW and employed by, or contracting with, a hospital licensed under chapter 70.41 RCW; or

(j) Assaults a judicial officer, court-related employee, county clerk, or county clerk's employee, while that person is performing his or her official duties at the time of the assault or as a result of that person's employment within the judicial system. For purposes of this subsection, "court-related employee" includes bailiffs, court reporters, judicial assistants, court managers, court managers' employees, and any other employee, regardless of title, who is engaged in equivalent functions; or

(k) Assaults a person located in a courtroom, jury room, judge's chamber, or any waiting area or corridor immediately adjacent to a courtroom, jury room, or judge's chamber. This section shall apply only: (i) During the times when a courtroom, jury room, or judge's chamber is being used for judicial purposes during court proceedings; and (ii) if signage was posted in compliance with section 3 of this act at the time of the assault .

(2) Assault in the third degree is a class C felony.

**Sec. 2.** RCW 9.94A.535 and 2011 c 87 s 1 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or

concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose.

(j) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury -Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

(bb) The current offense involved paying to view, over the internet in violation of RCW 9.68A.075, depictions of a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(cc) The offense was intentionally committed because the defendant perceived the victim to be homeless, as defined in RCW 9.94A.030.

(dd) The current offense involved a felony crime against persons, except for assault in the third degree pursuant to RCW 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's chamber, or any waiting area or corridor immediately adjacent to a courtroom, jury room, or judge's chamber. This subsection shall apply only: (i) During the times when a courtroom, jury room, or judge's chamber is being used for judicial purposes during court proceedings; and (ii) if signage was posted in compliance with section 3 of this act at the time of the offense.

NEW SECTION. Sec. 3. A new section is added to chapter 2.28 RCW to read as follows:

(1) Signage shall be posted notifying the public of the possible enhanced penalties under this act.

(2) The signage shall be prominently displayed at any public entrance to a courtroom.

(3) The administrative office of the courts shall develop a standard signage form notifying the public of the possible enhanced penalties under this act."

Correct the title.

Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Hope; Moscoso; Pettigrew; Ross and Takko.

Passed to Committee on Rules for second reading.

April 3, 2013

SSB 5679

Prime Sponsor, Committee on Ways & Means: Improving the business climate and stimulating job creation by requiring certain agencies to establish a formal review process of existing rules. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that regulatory processes impose significant costs on doing business and significantly influence investment behavior, location decisions, start-up activity, expansions, and hiring. The legislature further finds that, for more than a decade, the executive and legislative branches have called upon state agencies to review their regulations to achieve meaningful regulatory reform and improve the regulatory climate for Washington businesses. However, a 2012 performance audit conducted by the state auditor's office found that the departments of ecology, health, and labor and industries have not adopted sufficient streamlining processes or formally measured the results of their streamlining activities. Thus, it is the intent of the legislature to formally direct these three state agencies to achieve the regulatory reform that has been repeatedly called for by the governor and the legislature.

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

The department of ecology must establish a continuous, formal review process of its rules. The review must be based on a prioritized work plan and must include rules relating to licenses, permits, and inspections. The review must identify rules that can be simplified, amended, or repealed with a goal to reduce the regulatory burden on businesses without compromising the public health or safety. Performance measures must be adopted to assess the effectiveness of streamlining efforts. The department must establish a process for effectively applying sunset provisions to rules when applicable. The department must present an update to the applicable committees of the legislature regarding its review process, performance measures, and accomplishments of its streamlining efforts by January 2014, and every other year thereafter.

NEW SECTION. Sec. 3. A new section is added to chapter 43.22 RCW to read as follows:

The department of labor and industries must establish a continuous, formal review process of its rules. The review must be

based on a prioritized work plan and must include rules relating to licenses, permits, and inspections. The review must identify rules that can be simplified, amended, or repealed with a goal to reduce the regulatory burden on businesses without compromising the public health or safety. Performance measures must be adopted to assess the effectiveness of streamlining efforts. The department must establish a process for effectively applying sunset provisions to rules when applicable. The department must present an update to the applicable committees of the legislature regarding its review process, performance measures, and accomplishments of its streamlining efforts by January 2014, and every other year thereafter.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.70 RCW to read as follows:

The department of health must establish a continuous, formal review process of its rules. The review must be based on a prioritized work plan and must include rules relating to licenses, permits, and inspections. The review must identify rules that can be simplified, amended, or repealed with a goal to reduce the regulatory burden on businesses without compromising the public health or safety. Performance measures must be adopted to assess the effectiveness of streamlining efforts. The department must establish a process for effectively applying sunset provisions to rules when applicable. The department must present an update to the applicable committees of the legislature regarding its review process, performance measures, and accomplishments of its streamlining efforts by January 2014, and every other year thereafter."

Signed by Representatives Hunt, Chair; Bergquist, Vice Chair; Buys, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Alexander; Carlyle; Fitzgibbon; Manweller; Orwall and Van De Wege.

Referred to Committee on Appropriations.

April 3, 2013

**ESSB 5735** Prime Sponsor, Committee on Human Services & Corrections: Concerning registered sex or kidnapping offenders. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.24.550 and 2011 c 337 s 1 are each amended to read as follows:

(1) In addition to the disclosure under subsection (5) of this section, public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW 9A.44.128; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex

offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) Except for the information specifically required under subsection (5) of this section, the extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Except for the information specifically required under subsection (5) of this section, local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and, if the offender is a student, the public or private school regulated under Title 28A RCW or chapter 72.40 RCW which the offender is attending, or planning to attend. The agency may disclose, upon written request, relevant, necessary, and accurate information to any victim or witness to the offense (~~and to~~), any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found, and any individual who requests information regarding a specifically named offender; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, public libraries, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large; and (d) because more localized notification is not feasible and homeless and transient offenders may present unique risks to the community, the agency may also disclose relevant, necessary, and accurate information to the public at large for offenders registered as homeless or transient.

(4) In addition to publication on the statewide registered sex and kidnapping offender web site pursuant to subsection (5) of this section, the county sheriff with whom an offender classified as risk level III is registered shall (~~cause to be published by~~) release a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501 by means including, but not limited to, legal notice, advertising, or news release (~~a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501 in at least one legal newspaper with general circulation in the area of the sex offender's registered address or location. Unless the information is posted on the web site described in subsection (5) of this section, this list shall be maintained by the county sheriff on a publicly accessible web site and shall be updated at least once per month~~).

(5)(a) When funded by federal grants or other sources, the Washington association of sheriffs and police chiefs shall create and maintain a statewide registered kidnapping and sex offender web site, which shall be available to the public. The web site shall post all level III and level II registered sex offenders, level I registered sex offenders only during the time they are out of compliance with registration requirements under RCW 9A.44.130 or if lacking a fixed residence as provided in RCW 9A.44.130, and all registered kidnapping offenders in the state of Washington.

(i) For level III offenders, the web site shall contain, but is not limited to, the registered sex offender's name, relevant criminal convictions, address by hundred block, physical description, and photograph. The web site shall provide mapping capabilities that display the sex offender's address by hundred block on a map. The web site shall allow citizens to search for registered sex offenders within the state of Washington by county, city, zip code, last name, and address by hundred block.

(ii) For level II offenders, and level I sex offenders during the time they are out of compliance with registration requirements under RCW 9A.44.130, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(iii) For kidnapping offenders, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(b) Until the implementation of (a) of this subsection, the Washington association of sheriffs and police chiefs shall create a web site available to the public that provides electronic links to county-operated web sites that offer sex offender registration information.

(6)(a) Local law enforcement agencies ((that disseminate information pursuant to this section)) responsible for the registration and dissemination of information regarding offenders required to register under RCW 9A.44.130 shall assign a risk level classification to all offenders after consideration of: ((a) Review) (i) Any available risk level classifications ((made)) provided by the department of corrections, the department of social and health services, and the indeterminate sentence review board; ((b) assign risk level classifications to all offenders about whom information will be disseminated) (ii) the agency's own application of an empirically validated or generally accepted risk assessment tool as scored by staff trained in the use of that tool; and (iii) other information and aggravating or mitigating factors known to the agency and deemed rationally related to the risk posed by the offender to the community at large.

(b) A sex offender shall be classified as a risk level I if his or her risk assessment and other information or factors deemed relevant by the local law enforcement agency indicate he or she is a low risk offender within the community at large. A sex offender shall be classified as a risk level II if his or her risk assessment and other information or factors deemed relevant by the local law enforcement agency indicate he or she is a moderate risk offender within the community at large. A sex offender shall be classified as a risk level III if his or her risk assessment and other information or factors deemed relevant by the local law enforcement agency indicate he or she is a high risk offender within the community at large.

(c) The agency shall make a good faith effort to notify the public and residents within a reasonable period of time after the offender registers with the agency.

(d) The juvenile court shall provide local law enforcement officials with all relevant information on offenders allowed to remain in the community in a timely manner.

(7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a local law enforcement agency or official to classify an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided

under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(9) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(10) When a local law enforcement agency or official classifies an offender differently than the offender is classified by the end of sentence review committee ~~((or the department of social and health services))~~ at the time of the offender's release from confinement, the law enforcement agency or official shall notify the end of sentence review committee ~~((or the department of social and health services))~~ and the Washington state patrol and submit its reasons supporting the change in classification.

**Sec. 2.** RCW 9A.44.128 and 2012 c 134 s 2 are each amended to read as follows:

For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200, 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Conviction" means any adult conviction or juvenile adjudication for a sex offense or kidnapping offense.

(3) "Disqualifying offense" means a conviction for: Any offense that is a felony; a sex offense as defined in this section; a crime against children or persons as defined in RCW 43.43.830~~((5))~~(7) and 9.94A.411(2)(a); an offense with a domestic violence designation as provided in RCW 10.99.020; permitting the commercial sexual abuse of a minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88 RCW.

(4) "Employed" or "carries on a vocation" means employment that is full time or part time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(5) "Fixed residence" means a building that a person lawfully and habitually uses as living quarters a majority of the week. Uses as living quarters means to conduct activities consistent with the common understanding of residing, such as sleeping; eating; keeping personal belongings; receiving mail; and paying utilities, rent, or mortgage. A nonpermanent structure including, but not limited to, a motor home, travel trailer, camper, or boat may qualify as a residence provided it is lawfully and habitually used as living quarters a majority of the week, primarily kept at one location with a physical address, and the location it is kept at is either owned or rented by the person or used by the person with the permission of the owner or renter. A shelter program may qualify as a residence provided it is a shelter program designed to provide temporary living accommodations for the homeless, provides an offender with a personally assigned living space, and the offender is permitted to store belongings in the living space.

(6) "In the community" means residing outside of confinement or incarceration for a disqualifying offense.

(7) "Institution of higher education" means any public or private institution dedicated to postsecondary education, including any college, university, community college, trade, or professional school.

(8) "Kidnapping offense" means:

(a) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent;

(b) Any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection; and

(c) Any federal or out-of-state conviction for: An offense for which the person would be required to register as a kidnapping offender if residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a kidnapping offense under this subsection.

(9) "Lacks a fixed residence" means the person does not have a living situation that meets the definition of a fixed residence and includes, but is not limited to, a shelter program designed to provide temporary living accommodations for the homeless, an outdoor sleeping location, or locations where the person does not have permission to stay.

(10) "Sex offense" means:

(a) Any offense defined as a sex offense by RCW 9.94A.030;

(b) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(c) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(d) A violation under RCW 9A.88.070 (promoting prostitution in the first degree) or RCW 9A.88.080 (promoting prostitution in the second degree) if the person has a prior conviction for one of these offenses;

(e) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection;

(f) Any out-of-state conviction for an offense for which the person would be required to register as a sex offender while residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a sex offense under this subsection;

(g) Any federal conviction classified as a sex offense under 42 U.S.C. Sec. 16911 (SORNA);

(h) Any military conviction for a sex offense. This includes sex offenses under the uniform code of military justice, as specified by the United States secretary of defense;

(i) Any conviction in a foreign country for a sex offense if it was obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established pursuant to 42 U.S.C. Sec. 16912.

(11) "School" means a public or private school regulated under Title 28A RCW or chapter 72.40 RCW.

(12) "Student" means a person who is enrolled, on a full-time or part-time basis, in any school or institution of higher education.

**Sec. 3.** RCW 9A.44.130 and 2011 c 337 s 3 are each amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. When a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection must give notice to the county sheriff of the county with whom the person is registered within three business days:

(i) Prior to arriving at a school or institution of higher education to attend classes;

(ii) Prior to starting work at an institution of higher education; or

(iii) After any termination of enrollment or employment at a school or institution of higher education.

(2)(a) A person required to register under this section must provide the following information when registering: (i) Name and any aliases used; (ii) complete and accurate residential address or, if the person lacks a fixed residence, where he or she plans to stay; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) social security number; (viii) photograph; and (ix) fingerprints.

(b) A person may be required to update any of the information required in this subsection in conjunction with any address verification conducted by the county sheriff or as part of any notice required by this section.

(c) A photograph or copy of an individual's fingerprints may be taken at any time to update an individual's file.

(3)(a) Offenders shall register with the county sheriff within the following deadlines:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

When a person required to register under this section is in the custody of the state department of corrections and has been approved for partial confinement as defined in RCW 9.94A.030, the person must register at the time of transfer to partial confinement with the official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county in which the offender is in partial confinement. The offender must also register within three business days from the time of the termination of partial confinement or release from confinement with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991,

are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence.

(iii) **OFFENDERS UNDER FEDERAL JURISDICTION.** Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation.

(iv) **OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED.** Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register within three business days of being sentenced.

(v) **OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or

Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within three business days of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within three business days from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within three business days of receiving notice of this registration requirement.

(vii) **OFFENDERS WHO LACK A FIXED RESIDENCE.** Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than three business days after entering the county and provide the information required in subsection (2)(a) of this section.

(viii) **OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION.** Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) **OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE.** Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within three business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within three business days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of RCW 9A.44.132, or arraignment on charges for a violation of RCW 9A.44.132, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under RCW 9A.44.132 who asserts as a defense the lack of notice of the duty to register shall register within three business days following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (3)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.



(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(4)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff within three business days of moving.

(b) If any person required to register pursuant to this section moves to a new county, the person must register with that county sheriff within three business days of moving. Within three business days, the person must also provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(5)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within three business days after ceasing to have a fixed residence. The notice shall include the information required by subsection (2)(a) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within three business days of ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (3)(a)(vii) or (viii) and (5) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(6) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within three business days of the entry of the order.

(7) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a

county sheriff, or law enforcement agency, for failing to release information authorized under this section.

**Sec. 4.** RCW 9A.44.132 and 2011 c 337 s 5 are each amended to read as follows:

(1) A person commits the crime of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a felony sex offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) The failure to register as a sex offender pursuant to this subsection is a class C felony if:

(i) It is the person's first conviction for a felony failure to register; or

(ii) The person has previously been convicted of a felony failure to register as a sex offender in this state or pursuant to the laws of another state, or pursuant to federal law.

(b) If a person has been convicted of a felony failure to register as a sex offender in this state or pursuant to the laws of another state, or pursuant to federal law, on two or more prior occasions, the failure to register under this subsection is a class B felony.

(2) A person is guilty of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a sex offense other than a felony and knowingly fails to comply with any of the requirements of RCW 9A.44.130. The failure to register as a sex offender under this subsection is a gross misdemeanor.

(3) A person commits the crime of failure to register as a kidnapping offender if the person has a duty to register under RCW 9A.44.130 for a kidnapping offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) If the person has a duty to register for a felony kidnapping offense, the failure to register as a kidnapping offender is a class C felony.

(b) If the person has a duty to register for a kidnapping offense other than a felony, the failure to register as a kidnapping offender is a gross misdemeanor.

(4) Unless relieved of the duty to register pursuant to RCW 9A.44.141 and 9A.44.142, a violation of this section is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

**Sec. 5.** RCW 9A.44.140 and 2010 c 267 s 4 are each amended to read as follows:

The duty to register under RCW 9A.44.130 shall continue for the duration provided in this section.

(1) For a person convicted in this state of a class A felony (~~or an offense listed in RCW 9A.44.142(5)~~), or a person convicted (~~in this state~~) of any sex offense or kidnapping offense who has one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall continue indefinitely.

(2) For a person convicted in this state of a class B felony who does not have one or more prior convictions for a sex offense or kidnapping offense (~~and whose current offense is not listed in RCW 9A.44.142(5)~~), the duty to register shall end fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(3) For a person convicted in this state of a class C felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony, and the person does not have one or more prior convictions for a sex offense or kidnapping offense (~~and the person's current offense is not listed in RCW 9A.44.142(5)~~), the duty to register shall end ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years

in the community without being convicted of a disqualifying offense during that time period.

(4) For a person required to register for a federal or out-of-state conviction, the duty to register shall continue indefinitely.

(5) For a person who has been determined to be a sexually violent predator as defined in RCW 71.09.020, the duty to register shall continue for the person's lifetime.

~~(6)~~ Nothing in this section prevents a person from being relieved of the duty to register under RCW 9A.44.142 and 9A.44.143.

~~((6))~~ (7) Nothing in RCW 9.94A.637 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130.

~~((7))~~ (8) For purposes of determining whether a person has been convicted of more than one sex offense, failure to register as a sex offender or kidnapping offender is not a sex or kidnapping offense.

~~((8))~~ (9) The provisions of this section and RCW 9A.44.141 through 9A.44.143 apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense.

**Sec. 6.** RCW 9A.44.142 and 2011 c 337 s 7 are each amended to read as follows:

(1) A person who is required to register under RCW 9A.44.130 may petition the superior court to be relieved of the duty to register:

(a) If the person has a duty to register for a sex offense or kidnapping offense committed when the offender was a juvenile, regardless of whether the conviction was in this state, as provided in RCW 9A.44.143;

(b) If the person is required to register for a conviction in this state and is not prohibited from petitioning for relief from registration under subsection (2) of this section, when the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period; or

(c) If the person is required to register for a federal or out-of-state conviction, when the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(2)(a) A person may not petition for relief from registration if the person has been:

(i) Determined to be a sexually violent predator as defined in RCW 71.09.020; or

(ii) Convicted as an adult of a sex offense or kidnapping offense that is a class A felony and that was committed with forcible compulsion on or after June 8, 2000;~~(; or~~  
~~(iii) Until July 1, 2012, convicted of one aggravated offense or more than one sexually violent offense, as defined in subsection (5) of this section, and the offense or offenses were committed on or after March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii) shall have no further force and effect).~~

(b) Any person who may not be relieved of the duty to register may petition the court to be exempted from any community notification requirements that the person may be subject to fifteen years after the later of the entry of the judgment and sentence or the last date of release from confinement, including full-time residential treatment, pursuant to the conviction, if the person has spent the time in the community without being convicted of a disqualifying offense.

(3) A petition for relief from registration or exemption from notification under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in the county where the person is registered at the time the petition is sought. The prosecuting attorney of the county shall be named and served as the respondent in any such petition.

(4)(a) The court may relieve a petitioner of the duty to register only if the petitioner shows by clear and convincing evidence that the

petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(b) In determining whether the petitioner is sufficiently rehabilitated to warrant removal from the registry, the following factors are provided as guidance to assist the court in making its determination:

(i) The nature of the registrable offense committed including the number of victims and the length of the offense history;

(ii) Any subsequent criminal history;

(iii) The petitioner's compliance with supervision requirements;

(iv) The length of time since the charged incident(s) occurred;

(v) Any input from community corrections officers, law enforcement, or treatment providers;

(vi) Participation in sex offender treatment;

(vii) Participation in other treatment and rehabilitative programs;

(viii) The offender's stability in employment and housing;

(ix) The offender's community and personal support system;

(x) Any risk assessments or evaluations prepared by a qualified professional;

(xi) Any updated polygraph examination;

(xii) Any input of the victim;

(xiii) Any other factors the court may consider relevant.

~~(5)((a) A person who has been convicted of an aggravated offense, or has been convicted of one or more prior sexually violent offenses or criminal offenses against a victim who is a minor, as defined in (b) of this subsection:~~

~~(i) Until July 1, 2012, may not be relieved of the duty to register;~~

~~(ii) After July 1, 2012, may petition the court to be relieved of the duty to register as provided in this section;~~

~~(iii) This provision shall apply to convictions for crimes committed on or after July 22, 2001.~~

~~(b) Unless the context clearly requires otherwise, the following definitions apply only to the federal lifetime registration requirements under this subsection:~~

~~(i) "Aggravated offense" means an adult conviction that meets the definition of 18 U.S.C. Sec. 2241, which is limited to the following:~~

~~(A) Any sex offense involving sexual intercourse or sexual contact where the victim is under twelve years of age;~~

~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape of a child in the first degree), or RCW 9A.44.083 (child molestation in the first degree);~~

~~(C) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct: RCW 9A.44.050 (rape in the second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);~~

~~(D) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct, if the victim is twelve years of age or over but under sixteen years of age and the offender is eighteen years of age or over and is more than forty eight months older than the victim: RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), or RCW 9A.44.089 (child molestation in the third degree);~~

~~(E) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is under twelve years of age or that is committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially~~

~~impairs the ability of that person to appraise or control conduct;~~  
~~—(F) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or~~  
~~—(G) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(i)(A) through (F) of this subsection.~~

~~—(ii) "Sexually violent offense" means an adult conviction that meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited to the following:~~

~~—(A) An aggravated offense;~~

~~—(B) An offense that is not an aggravated offense but meets the definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1) (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b) through (f) (indecent liberties);~~

~~—(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is incapable of appraising the nature of the conduct or physically incapable of declining participation in, or communicating unwillingness to engage in, the conduct;~~

~~—(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or~~

~~—(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(ii)(A) through (D) of this subsection.~~

~~—(iii) "Criminal offense against a victim who is a minor" means, in addition to any aggravated offense or sexually violent offense where the victim was under eighteen years of age, an adult conviction for the following offenses where the victim is under eighteen years of age:~~

~~—(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093 (sexual misconduct with a minor in the first degree), RCW 9A.44.096 (sexual misconduct with a minor in the second degree), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090 (communication with a minor for immoral purposes), or RCW 9.68A.100 (commercial sexual abuse of a minor);~~

~~—(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful imprisonment), where the victim is a minor and the offender is not the minor's parent;~~

~~—(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is a minor;~~

~~—(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or~~

~~—(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(iii)(A) through (D) of this subsection.)~~ If a person is relieved of the duty to register pursuant to this section, the relief of registration does not constitute a certificate of rehabilitation, or the equivalent of a certificate of rehabilitation, for the purposes of restoration of firearm possession under RCW 9.41.040.

**Sec. 7.** RCW 9A.44.143 and 2011 c 338 s 1 are each amended to read as follows:

(1) An offender having a duty to register under RCW 9A.44.130 for a sex offense or kidnapping offense committed when the offender was a juvenile, and who has not been determined to be a sexually violent predator as defined in RCW 71.09.020 may petition the superior court to be relieved of that duty as provided in this section.

(2) For class A sex offenses or kidnapping offenses committed when the petitioner was fifteen years of age or older, the court may relieve the petitioner of the duty to register if:

(a) At least sixty months have passed since the petitioner's adjudication and completion of any term of confinement for the offense giving rise to the duty to register and the petitioner has not

been adjudicated or convicted of any additional sex offenses or kidnapping offenses within the sixty months before the petition;

(b) The petitioner has not been adjudicated or convicted of a violation of RCW 9A.44.132 (failure to register) during the sixty months prior to filing the petition; and

(c) The petitioner shows by a preponderance of the evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(3) For all other sex offenses or kidnapping offenses committed by a juvenile not included in subsection (2) of this section, the court may relieve the petitioner of the duty to register if:

(a) At least twenty-four months have passed since the petitioner's adjudication and completion of any term of confinement for the offense giving rise to the duty to register and the petitioner has not been adjudicated or convicted of any additional sex offenses or kidnapping offenses within the twenty-four months before the petition;

(b) The petitioner has not been adjudicated or convicted of a violation of RCW 9A.44.132 (failure to register) during the twenty-four months prior to filing the petition; and

(c) The petitioner shows by a preponderance of the evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(4) A petition for relief from registration under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in ~~((Thurston))~~ the county in which the juvenile is registered at the time a petition is sought. The prosecuting attorney of the county shall be named and served as the respondent in any such petition.

(5) In determining whether the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders, the following factors are provided as guidance to assist the court in making its determination, to the extent the factors are applicable considering the age and circumstances of the petitioner:

(a) The nature of the registrable offense committed including the number of victims and the length of the offense history;

(b) Any subsequent criminal history;

(c) The petitioner's compliance with supervision requirements;

(d) The length of time since the charged incident(s) occurred;

(e) Any input from community corrections officers, juvenile parole or probation officers, law enforcement, or treatment providers;

(f) Participation in sex offender treatment;

(g) Participation in other treatment and rehabilitative programs;

(h) The offender's stability in employment and housing;

(i) The offender's community and personal support system;

(j) Any risk assessments or evaluations prepared by a qualified professional;

(k) Any updated polygraph examination;

(l) Any input of the victim;

(m) Any other factors the court may consider relevant.

(6) If a person is relieved of the duty to register pursuant to this section, the relief of registration does not constitute a certificate of rehabilitation, or the equivalent of a certificate of rehabilitation, for the purposes of restoration of firearm possession under RCW 9.41.040.

(7) A juvenile prosecuted and convicted of a sex offense or kidnapping offense as an adult pursuant to RCW 13.40.110 or 13.04.030 may not petition to the superior court under this section and must follow the provisions of RCW 9A.44.142.

(8) An adult prosecuted for an offense committed as juvenile once the juvenile court has lost jurisdiction due to the passage of time between the date of the offense and the date of filing of charges may petition the superior court under the provisions of this section.

**Sec. 8.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to read as follows:

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

(a) Every adult or juvenile individual convicted of a felony, or any of the following crimes (or equivalent juvenile offenses):

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

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

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

Failure to register (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)

Harassment (RCW 9A.46.020)

Patronizing a prostitute (RCW 9A.88.110)

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

Stalking (RCW 9A.46.110)

Violation of a sexual assault protection order granted under chapter 7.90 RCW; and

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

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

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

(a) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense who do not serve a term of confinement in a department of corrections facility, and do serve a term of confinement in a city or county jail facility, the city or county shall be responsible for obtaining the biological samples.

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

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

(ii) Persons who are required to register under RCW ~~(9A.44.030)~~ 9A.44.130.

(c) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a department of social and health services facility, the facility holding the person shall be responsible for obtaining the biological samples. For those persons incarcerated before June 12, 2008, who have not yet had a biological sample collected, priority shall be given to those persons who will be released the soonest.

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

(5) The forensic laboratory services bureau of the Washington state patrol is responsible for testing performed on all biological samples that are collected under subsection (1) of this section, to the extent allowed by funding available for this purpose. The director shall give priority to testing on samples collected from those adults or juveniles convicted of a felony or adjudicated guilty of an equivalent juvenile offense that is defined as a sex offense or a violent offense in

RCW 9.94A.030. Known duplicate samples may be excluded from testing unless testing is deemed necessary or advisable by the director.

(6) This section applies to:

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

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

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

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

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

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

(8) The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks.

**Sec. 9.** RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH  
SERIOUSNESS LEVEL

Aggravated Murder 1 (RCW 10.95.020)

Homicide by abuse (RCW 9A.32.055)

Malicious explosion 1 (RCW 70.74.280(1))

Murder 1 (RCW 9A.32.030)

Murder 2 (RCW 9A.32.050)

Trafficking 1 (RCW 9A.40.100(1))

Malicious explosion 2 (RCW 70.74.280(2))

Malicious placement of an explosive 1 (RCW 70.74.270(1))

Assault 1 (RCW 9A.36.011)

Assault of a Child 1 (RCW 9A.36.120)

Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))

Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)

Rape 1 (RCW 9A.44.040)

Rape of a Child 1 (RCW 9A.44.073)

Trafficking 2 (RCW 9A.40.100(2))

Manslaughter 1 (RCW 9A.32.060)

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| Rape 2 (RCW 9A.44.050)   | Drive-by Shooting (RCW 9A.36.045)   |
| Rape of a Child 2 (RCW 9A.44.076)  | Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)  |
| Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)      | Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))   |
| Child Molestation 1 (RCW 9A.44.083)  | Introducing Contraband 1 (RCW 9A.76.140)  |
| Criminal Mistreatment 1 (RCW 9A.42.020)  | Malicious placement of an explosive 3 (RCW 70.74.270(3))  |
| Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))                                      | Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)  |
| Kidnapping 1 (RCW 9A.40.020)   | Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))                              |
| Leading Organized Crime (RCW 9A.82.060(1)(a))  | Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))  |
| Malicious explosion 3 (RCW 70.74.280(3))   | Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)   |
| Sexually Violent Predator Escape (RCW 9A.76.115)   | Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)   |
| Abandonment of Dependent Person 1 (RCW 9A.42.060)  | Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))  |
| Assault of a Child 2 (RCW 9A.36.130)   | Bribery (RCW 9A.68.010)   |
| Explosive devices prohibited (RCW 70.74.180)   | Incest 1 (RCW 9A.64.020(1))   |
| Hit and Run--Death (RCW 46.52.020(4)(a))   | Intimidating a Judge (RCW 9A.72.160)  |
| Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050) | Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)   |
| Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))   | Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))  |
| Malicious placement of an explosive 2 (RCW 70.74.270(2))   | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))   |
| Robbery 1 (RCW 9A.56.200)  | Rape of a Child 3 (RCW 9A.44.079)   |
| Sexual Exploitation (RCW 9.68A.040)  | Theft of a Firearm (RCW 9A.56.300)  |
| Arson 1 (RCW 9A.48.020)  | Unlawful Storage of Ammonia (RCW 69.55.020)   |
| Commercial Sexual Abuse of a Minor (RCW 9.68A.100)   | Abandonment of Dependent Person 2 (RCW 9A.42.070)   |
| Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)             | Advancing money or property for extortionate extension of credit (RCW 9A.82.030)  |
| Manslaughter 2 (RCW 9A.32.070)   | Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))  |
| Promoting Prostitution 1 (RCW 9A.88.070)   | Child Molestation 3 (RCW 9A.44.089)   |
| Theft of Ammonia (RCW 69.55.010)   | Criminal Mistreatment 2 (RCW 9A.42.030)   |
| Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)                 | Custodial Sexual Misconduct 1 (RCW 9A.44.160)   |
| Burglary 1 (RCW 9A.52.020)   | Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))  |
| Child Molestation 2 (RCW 9A.44.086)  | Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145) |
| Civil Disorder Training (RCW 9A.48.120)  | Driving While Under the Influence (RCW 46.61.502(6))  |
| Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))                 |   |

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| Extortion 1 (RCW 9A.56.120)  | Malicious Harassment (RCW 9A.36.080)   |
| Extortionate Extension of Credit (RCW 9A.82.020)   | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))  |
| Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)   | Residential Burglary (RCW 9A.52.025)   |
| Incest 2 (RCW 9A.64.020(2))  | Robbery 2 (RCW 9A.56.210)  |
| Kidnapping 2 (RCW 9A.40.030)   | Theft of Livestock 1 (RCW 9A.56.080)   |
| Perjury 1 (RCW 9A.72.020)  | Threats to Bomb (RCW 9.61.160)   |
| Persistent prison misbehavior (RCW 9.94.070)   | Trafficking in Stolen Property 1 (RCW 9A.82.050)   |
| Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))                                 | Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))  |
| Possession of a Stolen Firearm (RCW 9A.56.310)   | Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))   |
| Rape 3 (RCW 9A.44.060)   | Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))  |
| Rendering Criminal Assistance 1 (RCW 9A.76.070)  | Unlawful transaction of insurance business (RCW 48.15.023(3))  |
| Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2)) | Unlicensed practice as an insurance professional (RCW 48.17.063(2))  |
| Sexual Misconduct with a Minor 1 (RCW 9A.44.093)   | Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))   |
| Sexually Violating Human Remains (RCW 9A.44.105)   | Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522) |
| Stalking (RCW 9A.46.110)   | Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))   |
| Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)  | Willful Failure to Return from Furlough (RCW 72.66.060)  |
| Arson 2 (RCW 9A.48.030)  | Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))  |
| Assault 2 (RCW 9A.36.021)  | Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))  |
| Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))                            | Assault of a Child 3 (RCW 9A.36.140)   |
| Assault by Watercraft (RCW 79A.60.060)   | Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))  |
| Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)                                     | Burglary 2 (RCW 9A.52.030)   |
| Cheating 1 (RCW 9.46.1961)   | Communication with a Minor for Immoral Purposes (RCW 9.68A.090)  |
| Commercial Bribery (RCW 9A.68.060)   | Criminal Gang Intimidation (RCW 9A.46.120)   |
| Counterfeiting (RCW 9.16.035(4))   | Custodial Assault (RCW 9A.36.100)  |
| Endangerment with a Controlled Substance (RCW 9A.42.100)   | Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))   |
| Escape 1 (RCW 9A.76.110)   | Escape 2 (RCW 9A.76.120)   |
| Hit and Run--Injury (RCW 46.52.020(4)(b))  | Extortion 2 (RCW 9A.56.130)  |
| Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))   | Harassment (RCW 9A.46.020)   |
| Identity Theft 1 (RCW 9.35.020(2))   |  |
| Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)                    |  |
| Influencing Outcome of Sporting Event (RCW 9A.82.070)  |  |

Intimidating a Public Servant (RCW 9A.76.180)  
 Introducing Contraband 2 (RCW 9A.76.150)  
 Malicious Injury to Railroad Property (RCW 81.60.070)  
 Mortgage Fraud (RCW 19.144.080)  
 Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)  
 Organized Retail Theft 1 (RCW 9A.56.350(2))  
 Perjury 2 (RCW 9A.72.030)  
 Possession of Incendiary Device (RCW 9.40.120)  
 Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)  
 Promoting Prostitution 2 (RCW 9A.88.080)  
 Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))  
 Securities Act violation (RCW 21.20.400)  
 Tampering with a Witness (RCW 9A.72.120)  
 Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))  
 Theft of Livestock 2 (RCW 9A.56.083)  
 Theft with the Intent to Resell 1 (RCW 9A.56.340(2))  
 Trafficking in Stolen Property 2 (RCW 9A.82.055)  
 Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))  
 Unlawful Imprisonment (RCW 9A.40.040)  
 Unlawful possession of firearm in the second degree (RCW 9.41.040(2))  
 Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))  
 Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))  
 Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))  
 Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)  
 Willful Failure to Return from Work Release (RCW 72.65.070)  
 Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))  
 Computer Trespass 1 (RCW 9A.52.110)  
 Counterfeiting (RCW 9.16.035(3))  
 Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))  
 Escape from Community Custody (RCW 72.09.310)  
 Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)  
 Health Care False Claims (RCW 48.80.030)  
 Identity Theft 2 (RCW 9.35.020(3))  
 Improperly Obtaining Financial Information (RCW 9.35.010)  
 Malicious Mischief 1 (RCW 9A.48.070)  
 Organized Retail Theft 2 (RCW 9A.56.350(3))  
 Possession of Stolen Property 1 (RCW 9A.56.150)  
 Possession of a Stolen Vehicle (RCW 9A.56.068)  
 Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))  
 Theft 1 (RCW 9A.56.030)  
 Theft of a Motor Vehicle (RCW 9A.56.065)  
 Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))  
 Theft with the Intent to Resell 2 (RCW 9A.56.340(3))  
 Trafficking in Insurance Claims (RCW 48.30A.015)  
 Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))  
 Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))  
 Unlawful Practice of Law (RCW 2.48.180)  
 Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))  
 Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))  
 Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))  
 Voyeurism (RCW 9A.44.115)  
 Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)  
 False Verification for Welfare (RCW 74.08.055)  
 Forgery (RCW 9A.60.020)  
 Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)  
 Malicious Mischief 2 (RCW 9A.48.080)  
 Mineral Trespass (RCW 78.44.330)  
 Possession of Stolen Property 2 (RCW 9A.56.160)  
 Reckless Burning 1 (RCW 9A.48.040)  
 Spotlighting Big Game 1 (RCW 77.15.450(3)(b))  
 Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))  
 Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft of Rental, Leased, or Lease-purchased  
Property (valued at two hundred fifty  
dollars or more but less than one thousand  
five hundred dollars) (RCW  
9A.56.096(5)(b))

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

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

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

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

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

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

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

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

Unlawful Release of Deleterious Exotic  
Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps (RCW  
9.91.142)

Unlawful Use of Food Stamps (RCW  
9.91.144)

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

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

Vehicle Prowl 1 (RCW 9A.52.095)

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

**Sec. 10.** RCW 9.94A.030 and 2012 c 143 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) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution



(chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(25) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW

46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(26) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(27) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(28) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(29) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(30) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(31) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(32) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating

liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(33) "Nonviolent offense" means an offense which is not a violent offense.

(34) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(35) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(36) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

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

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(37) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (37)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree

constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(38) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(39) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(40) "Public school" has the same meaning as in RCW 28A.150.010.

(41) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(42) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(43) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(44) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(45) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(46) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(47) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(48) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(49) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(50) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(51) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(52) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(53) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(54) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(55) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(56) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(57) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec. 11.** RCW 28A.300.147 and 2011 c 338 s 6 are each amended to read as follows:

The superintendent of public instruction shall publish on its web site, with a link to the safety center web page~~((s))~~;

(1) A revised and updated sample policy for schools to follow regarding students required to register as sex or kidnapping offenders; and

(2) Educational materials developed pursuant to RCW 28A.300.145.

**Sec. 12.** RCW 72.09.345 and 2011 c 338 s 5 are each amended to read as follows:

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to the public concerning offenders convicted of sex offenses.

(2) In order for public agencies to have the information necessary to notify the public as authorized in RCW 4.24.550, the secretary shall establish and administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders.

(3) The committee shall assess, on a case-by-case basis, the public risk posed by:

(a) Offenders preparing for release from confinement for a sex offense or sexually violent offense committed on or after July 1, 1984;

(b) Sex offenders accepted from another state under a reciprocal agreement under the interstate corrections compact authorized in chapter 72.74 RCW;

(c) Juveniles preparing for release from confinement for a sex offense and releasing from the department of social and health services juvenile rehabilitation administration;

(d) Juveniles, following disposition, under the jurisdiction of a county juvenile court for a registerable sex offense; and

(e) Juveniles found to have committed a sex offense and accepted from another state under a reciprocal agreement under the interstate compact for juveniles authorized in chapter 13.24 RCW.

(4) Notwithstanding any other provision of law, the committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records. Records and information obtained under this subsection shall not be disclosed outside the committee unless otherwise authorized by law.

(5) The committee shall review each sex offender under its authority before the offender's release from confinement or start of the offender's term of community custody in order to: (a) Classify the offender into a risk level for the purposes of public notification under RCW 4.24.550; (b) where available, review the offender's proposed release plan in accordance with the requirements of RCW 72.09.340; and (c) make appropriate referrals.

(6) The committee shall classify as risk level I those sex offenders whose risk assessments indicate ~~((a)) they are low risk ((of reoffense))~~ offenders within the community at large. The committee shall classify as risk level II those offenders whose risk assessments indicate ~~((a)) they are moderate risk ((of reoffense))~~ offenders within the community at large. The committee shall classify as risk level III those offenders whose risk assessments indicate ~~((a)) they are high risk ((of reoffense))~~ offenders within the community at large.

(7) The committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW 4.24.550, narrative notices regarding the pending release of sex offenders from the department's facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification.

**NEW SECTION. Sec. 13.** Section 11 of this act takes effect September 1, 2013."

Correct the title.

Signed by Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Holy; Moscoso; Pettigrew and Takko.

MINORITY recommendation: Do not pass. Signed by Representatives Hope and Ross.

Referred to Committee on Appropriations Subcommittee on General Government.

April 3, 2013

SB 5748 Prime Sponsor, Senator Roach: Extending contribution limits to candidates for public hospital district boards of commissioners. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended.

On page 1, line 18, after "commissioners" insert "in districts with a population over one hundred fifty thousand"

Signed by Representatives Hunt, Chair; Bergquist, Vice Chair; Buys, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Alexander; Carlyle; Fitzgibbon; Manweller; Orwall and Van De Wege.

Passed to Committee on Rules for second reading.

There being no objection, the bills listed on the day's first, second, third and fourth supplemental committee reports under the

fifth order of business were referred to the committees so designated.

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

There being no objection, the House adjourned until 9:55 a.m., April 4, 2013, the 81st Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

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| 1986    | Committee Report .....            | 46 |
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| 2002    | Committee Report .....            | 1  |
| 2024    | Introduction & 1st Reading .....  | 1  |
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| 5031-S  | Committee Report .....            | 35 |
| 5045-S  | Committee Report .....            | 35 |
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| 5059    | Committee Report .....            | 61 |
| 5083    | Committee Report .....            | 11 |
| 5098    | Committee Report .....            | 11 |
| 5105    | Committee Report .....            | 62 |
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| 5118-S  | Committee Report .....            | 11 |
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|         | Third Reading Final Passage ..... | 7  |
| 5141    | Committee Report .....            | 1  |
| 5145    | Second Reading .....              | 7  |
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| 5182-S  | Committee Report .....            | 47 |
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