

**NINETY NINTH DAY**

House Chamber, Olympia, Monday, April 22, 2013

April 19, 2013

The House was called to order at 1:30 p.m. by the Speaker (Representative Moeller 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 Madison Littleton and Erick Roth. The Speaker (Representative Moeller presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Rabbi Yohanna Kinberg, Temple B'Nai Torah, Bellevue, Washington.

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

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

**MESSAGES FROM THE SENATE**

April 19, 2013

MR. SPEAKER:

The Senate has passed:

SUBSTITUTE SENATE BILL NO. 5897  
SENATE BILL NO. 5904

and the same are herewith transmitted.

Hunter G. Goodman, Secretary

April 19, 2013

MR. SPEAKER:

The President has signed:

HOUSE BILL NO. 1003  
SUBSTITUTE HOUSE BILL NO. 1009  
SUBSTITUTE HOUSE BILL NO. 1012  
HOUSE BILL NO. 1045  
HOUSE BILL NO. 1065  
SUBSTITUTE HOUSE BILL NO. 1071  
SUBSTITUTE HOUSE BILL NO. 1075  
HOUSE BILL NO. 1149  
HOUSE BILL NO. 1218  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1381  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1403  
SUBSTITUTE HOUSE BILL NO. 1420  
SUBSTITUTE HOUSE BILL NO. 1456  
HOUSE BILL NO. 1468  
SUBSTITUTE HOUSE BILL NO. 1568  
HOUSE BILL NO. 1576  
SUBSTITUTE HOUSE BILL NO. 1613  
SUBSTITUTE HOUSE BILL NO. 1617  
SUBSTITUTE HOUSE BILL NO. 1629  
HOUSE BILL NO. 1644  
HOUSE BILL NO. 1683  
SUBSTITUTE HOUSE BILL NO. 1822  
HOUSE BILL NO. 1863  
SUBSTITUTE HOUSE BILL NO. 1868  
ENGROSSED HOUSE BILL NO. 1887

and the same are herewith transmitted.

Hunter G. Goodman, Secretary

MR. SPEAKER:

The President has signed:

SUBSTITUTE HOUSE BILL NO. 1021  
HOUSE BILL NO. 1036  
SUBSTITUTE HOUSE BILL NO. 1180  
SUBSTITUTE HOUSE BILL NO. 1200  
HOUSE BILL NO. 1203  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1247  
SUBSTITUTE HOUSE BILL NO. 1256  
SUBSTITUTE HOUSE BILL NO. 1261  
SUBSTITUTE HOUSE BILL NO. 1270  
SUBSTITUTE HOUSE BILL NO. 1271  
HOUSE BILL NO. 1330  
SUBSTITUTE HOUSE BILL NO. 1370  
SUBSTITUTE HOUSE BILL NO. 1397  
SUBSTITUTE HOUSE BILL NO. 1422  
HOUSE BILL NO. 1447  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1480  
SUBSTITUTE HOUSE BILL NO. 1498  
SUBSTITUTE HOUSE BILL NO. 1499  
HOUSE BILL NO. 1534  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1717  
HOUSE BILL NO. 1738  
SUBSTITUTE HOUSE BILL NO. 1812

and the same are herewith transmitted.

Hunter G. Goodman, Secretary

April 19, 2013

MR. SPEAKER: The President has signed SUBSTITUTE SENATE BILL NO. 5152 and the same is herewith transmitted.

Hunter G. Goodman, Secretary

April 19, 2013

MR. SPEAKER:

The Senate has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5024  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5785  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5857

and the same are herewith transmitted.

Hunter G. Goodman, Secretary

April 19, 2013

MR. SPEAKER:

The Senate concurred in the House amendment(s) to the following bills and passed the bills as amended by the House:

SUBSTITUTE SENATE BILL NO. 5002  
SUBSTITUTE SENATE BILL NO. 5022  
SENATE BILL NO. 5050  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5078  
SENATE BILL NO. 5161  
SECOND SUBSTITUTE SENATE BILL NO. 5197  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5329  
SENATE BILL NO. 5355  
SENATE BILL NO. 5359  
SUBSTITUTE SENATE BILL NO. 5434  
SUBSTITUTE SENATE BILL NO. 5565

SUBSTITUTE SENATE BILL NO. 5591  
SENATE BILL NO. 5809

and the same are herewith transmitted.

Hunter G. Goodman, Secretary

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

### INTRODUCTIONS AND FIRST READING

HB 2055 by Representatives Rodne, Morris, Smith, Pedersen, Nealey, Goodman, Orwall, Fagan, Johnson, Harris, Hansen, Moeller, Warnick, Jinkins, Roberts, Kirby, Ross, Pollet and Morrell

AN ACT Relating to recovering costs in consumer protection actions; and amending RCW 19.86.080 and 19.270.060.

Referred to Committee on Judiciary.

SSB 5897 by Senate Committee on Ways & Means (originally sponsored by Senator Pearson)

AN ACT Relating to state parks; amending RCW 79A.05.335, 79A.05.340, 79A.05.345, 79A.70.005, 79A.70.010, 79A.70.020, 79A.70.030, 79A.70.040, 79A.80.020, 79A.80.030, 79A.80.080, 79A.05.025, 79A.05.175, 79A.05.178, 82.19.040, 70.93.180, and 79A.05.215; reenacting and amending RCW 79A.05.030; adding a new section to chapter 79A.80 RCW; adding new sections to chapter 79A.05 RCW; creating a new section; repealing RCW 79A.70.050; providing an effective date; providing expiration dates; and declaring an emergency.

Referred to Committee on Community Development, Housing & Tribal Affairs.

SB 5904 by Senators Hill, Hargrove, Litzow and Billig

AN ACT Relating to high quality early learning; reenacting and amending RCW 43.215.405; adding new sections to chapter 43.215 RCW; creating new sections; and recodifying RCW 43.215.141 and 43.215.142.

Referred to Committee on Appropriations.

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

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

### THIRD READING

#### MESSAGE FROM THE SENATE

April 15, 2013

Mr. Speaker:

The Senate has passed SHB 1130 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.55.120 and 2009 c 387 s 3 are each amended to read as follows:

(1)(a) Vehicles or other items of personal property registered or titled with the department that are impounded by registered tow truck operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140 may be redeemed only ~~((under the following circumstances))~~ by the following persons or entities:

~~((a) Only)~~ (i) The legal owner~~(-);~~;

(ii) The registered owner~~(-);~~;

~~((iii) A person authorized in writing by the registered owner ((or the vehicle's insurer));~~

(iv) The vehicle's insurer or a vendor working on behalf of the vehicle's insurer;

~~((v) A third-party insurer that has a duty to repair or replace the vehicle, has obtained consent from the registered owner or the owner's agent to move the vehicle, and has documented that consent in the insurer's claim file, or a vendor working on behalf of a third-party insurer that has received such consent; provided, however, that at all times the registered owner must be granted access to the vehicle.~~

For the purposes of this subsection, "owner's agent" means the legal owner of the vehicle, a driver in possession of the vehicle with the registered owner's permission, or an adult member of the registered owner's family;

~~((vi) A person who is determined and verified by the operator to have the permission of the registered owner of the vehicle or other item of personal property registered or titled with the department((or one));~~ or

~~((vii) A person who has purchased a vehicle or item of personal property registered or titled with the department from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor((, may redeem an impounded vehicle or items of personal property registered or titled with the department)).~~

(b) In addition, a vehicle impounded because the operator is in violation of RCW 46.20.342(1)(c) shall not be released until a person eligible to redeem it under (a) of this subsection ~~((1)(a))~~ satisfies the requirements of ~~((e))~~ (f) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency. If the department's records show that the operator has been convicted of a violation of RCW 46.20.342 or a similar local ordinance within the past five years, the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. A vehicle impounded because the operator is arrested for a violation of RCW 46.20.342 may be released only pursuant to a written order from the agency that ordered the vehicle impounded or from the court having jurisdiction. An agency shall issue a written order to release pursuant to a provision of an applicable state agency rule or local ordinance authorizing release on the basis of the following:

(i) Economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record; or

(ii) The owner of the vehicle was not the driver, the owner did not know that the driver's license was suspended or revoked, and the owner has not received a prior release under this subsection or RCW 46.55.113(3).

In order to avoid discriminatory application, other than for the reasons for release set forth in ~~((a))~~ (b)(i) and (ii) of this subsection, an agency shall, under a provision of an applicable state agency rule or local ordinance, deny release in all other circumstances without discretion.

If a vehicle is impounded because the operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. However, if the department's records show that the operator has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a similar local ordinance within the past five years, the

vehicle may be held at the written direction of the agency ordering the vehicle impounded for up to sixty days, and for up to ninety days if the operator has two or more such prior offenses. If a vehicle is impounded because the operator is arrested for a violation of RCW 46.20.342, the vehicle may not be released until a person eligible to redeem it under (a) of this subsection ~~((1)(a))~~ satisfies the requirements of ~~((e))~~ (f) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency.

~~((b))~~ (c) If the vehicle is directed to be held for a suspended license impound, a person who desires to redeem the vehicle at the end of the period of impound shall within five days of the impound at the request of the tow truck operator pay a security deposit to the tow truck operator of not more than one-half of the applicable impound storage rate for each day of the proposed suspended license impound. The tow truck operator shall credit this amount against the final bill for removal, towing, and storage upon redemption. The tow truck operator may accept other sufficient security in lieu of the security deposit. If the person desiring to redeem the vehicle does not pay the security deposit or provide other security acceptable to the tow truck operator, the tow truck operator may process and sell at auction the vehicle as an abandoned vehicle within the normal time limits set out in RCW 46.55.130(1). The security deposit required by this section may be paid and must be accepted at any time up to twenty-four hours before the beginning of the auction to sell the vehicle as abandoned. The registered owner is not eligible to purchase the vehicle at the auction, and the tow truck operator shall sell the vehicle to the highest bidder who is not the registered owner.

~~((e))~~ (d) Notwithstanding ~~((b))~~ (c) of this subsection, a rental car business may immediately redeem a rental vehicle it owns by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound.

~~((d))~~ (e) Notwithstanding ~~((b))~~ (c) of this subsection, a motor vehicle dealer or lender with a perfected security interest in the vehicle may redeem or lawfully repossess a vehicle immediately by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound. A motor vehicle dealer or lender with a perfected security interest in the vehicle may not knowingly and intentionally engage in collusion with a registered owner to repossess and then return or resell a vehicle to the registered owner in an attempt to avoid a suspended license impound. However, this provision does not preclude a vehicle dealer or a lender with a perfected security interest in the vehicle from repossessing the vehicle and then selling, leasing, or otherwise disposing of it in accordance with chapter 62A.9A RCW, including providing redemption rights to the debtor under RCW 62A.9A-623. If the debtor is the registered owner of the vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A RCW is conditioned upon the debtor obtaining and providing proof from the impounding authority or court having jurisdiction that any fines, penalties, and forfeitures owed by the registered owner, as a result of the suspended license impound, have been paid, and proof of the payment must be tendered to the vehicle dealer or lender at the time the debtor tenders all other obligations required to redeem the vehicle. Vehicle dealers or lenders are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound.

~~((e))~~ (f) The vehicle or other item of personal property registered or titled with the department shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle, with credit being given for the amount of any security deposit paid under ~~((b))~~ (c) of this subsection. In addition, if a vehicle is impounded because the operator was arrested for a violation of RCW 46.20.342

or 46.20.345 and was being operated by the registered owner when it was impounded under local ordinance or agency rule, it must not be released to any person until the registered owner establishes with the agency that ordered the vehicle impounded or the court having jurisdiction that any penalties, fines, or forfeitures owed by him or her have been satisfied. Registered tow truck operators are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards issued by financial institutions, or personal checks drawn on Washington state branches of financial institutions if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. If the towing firm cannot determine through the customer's bank or a check verification service that the presented check would be paid by the bank or guaranteed by the service, the towing firm may refuse to accept the check. Any person who stops payment on a personal check or credit card, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2)(a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle, or item of personal property registered or titled with the department, written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. The municipal court has jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the appropriate court within ten days of the date the opportunity was provided for in ~~(subsection (2))~~ (a) of this subsection and more than five days before the date of the auction. At the time of the filing of the hearing request, the petitioner shall pay to the court clerk a filing fee in the same amount required for the filing of a suit in district court. If the hearing request is not received by the court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle or other item of personal property registered or titled with the department, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper. The court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.

(c) At the conclusion of the hearing, the court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees. The court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be in violation of this chapter, then the registered and legal owners of the vehicle or other item of personal property registered or titled with the department shall bear no impoundment, towing, or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the registered tow truck operator against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle, or other item of personal property registered or titled with the department, for the amount of the filing fee required by law for the impound hearing petition as well as reasonable damages for loss of the use of the vehicle during the time the same was impounded against the person or agency authorizing the impound. However, if an impoundment arising from an alleged violation of RCW 46.20.342 or 46.20.345 is determined to be in violation of this chapter, then the law enforcement officer directing the impoundment and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the records of the department in ascertaining that the operator of the vehicle had a suspended or revoked driver's license. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:

TO: . . . . .

YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the . . . . . Court located at . . . . . in the sum of \$. . . . ., in an action entitled . . . . ., Case No. . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.

DATED this . . . . day of . . . . ., (year) . . .

Signature . . . . . Typed name

and address

of party mailing

notice

(4) Any impounded abandoned vehicle or item of personal property registered or titled with the department that is not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(3) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle or item of personal property registered or titled with the department may be redeemed at any time before the start of the auction upon payment of the applicable towing and storage fees."

On page 1, line 1 of the title, after "vehicles;" strike the remainder of the title and insert "and amending RCW 46.55.120."

and the same is herewith transmitted.

Brad Hendrickson Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to Substitute House Bill No. 1130 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 12, 2013

Mr. Speaker:

The Senate has passed House Bill No. 1471 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 2. RCW 43.70.056 and 2010 c 113 s 1 are each amended to read as follows:

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

(a) "Health care-associated infection" means a localized or systemic condition that results from adverse reaction to the presence of an infectious agent or its toxins and that was not present or incubating at the time of admission to the hospital.

(b) "Hospital" means a health care facility licensed under chapter 70.41 RCW.

(2)(a) A hospital shall collect data related to health care-associated infections as required under this subsection (2) on the following:

(i) ~~((Beginning July 1, 2008, central line-associated bloodstream infection in the intensive care unit;~~

~~(ii) Beginning January 1, 2009, ventilator-associated pneumonia; and~~

~~(iii) Beginning January 1, 2010,)) Central line-associated bloodstream infection in all hospital inpatient areas where patients normally reside at least twenty-four hours;~~

~~(ii) Surgical site infection for the following procedures:~~

~~(A) Deep sternal wound for cardiac surgery, including coronary artery bypass graft;~~

~~(B) Total hip and knee replacement surgery; and~~

~~(C) ~~((Hysterectomy, abdominal and vaginal.~~~~

~~(b)(i) Except as required under (b)(ii) and (c) of this subsection,)) Colon and abdominal hysterectomy procedures.~~

(b) The department shall, by rule, delete, add, or modify categories of reporting when the department determines that doing so is necessary to align state reporting with the reporting categories of the centers for medicare and medicaid services. The department shall begin rule making forty-five calendar days, or as soon as practicable,

after the centers for medicare and medicaid services adopts changes to reporting requirements.

~~(c) A hospital must routinely collect and submit the data required to be collected under (a) and (b) of this subsection to the national healthcare safety network of the United States centers for disease control and prevention in accordance with national healthcare safety network definitions, methods, requirements, and procedures.~~

~~((ii) Until the national health care safety network releases a revised module that successfully interfaces with a majority of computer systems of Washington hospitals required to report data under (a)(iii) of this subsection or three years, whichever occurs sooner, a hospital shall monthly submit the data required to be collected under (a)(iii) of this subsection to the Washington state hospital association's quality benchmarking system instead of the national health care safety network. The department shall not include data reported to the quality benchmarking system in reports published under subsection (3)(d) of this section. The data the hospital submits to the quality benchmarking system under (b)(ii) of this subsection:~~

~~—(A) Must include the number of infections and the total number of surgeries performed for each type of surgery; and~~

~~—(B) Must be the basis for a report developed by the Washington state hospital association and published on its web site that compares the health care associated infection rates for surgical site infections at individual hospitals in the state using the data reported in the previous calendar year pursuant to this subsection. The report must be published on December 1, 2010, and every year thereafter until data is again reported to the national health care safety network.~~

~~(c)(i) With respect to any of the health care associated infection measures for which reporting is required under (a) of this subsection, the department must, by rule, require hospitals to collect and submit the data to the centers for medicare and medicaid services according to the definitions, methods, requirements, and procedures of the hospital compare program, or its successor, instead of to the national healthcare safety network, if the department determines that:~~

~~—(A) The measure is available for reporting under the hospital compare program, or its successor, under substantially the same definition; and~~

~~—(B) Reporting under this subsection (2)(c) will provide substantially the same information to the public.~~

~~(ii) If the department determines that reporting of a measure must be conducted under this subsection (2)(c), the department must adopt rules to implement such reporting. The department's rules must require reporting to the centers for medicare and medicaid services as soon as practicable, but not more than one hundred twenty days, after the centers for medicare and medicaid services allow hospitals to report the respective measure to the hospital compare program, or its successor. However, if the centers for medicare and medicaid services allow infection rates to be reported using the centers for disease control and prevention's national healthcare safety network, the department's rules must require reporting that reduces the burden of data reporting and minimizes changes that hospitals must make to accommodate requirements for reporting.) If the centers for medicare and medicaid services changes reporting from the national healthcare safety network to another database or through another process, the department shall review the new reporting database or process and consider whether it aligns with the purposes of this section.~~

(d) Data collection and submission required under this subsection (2) must be overseen by a qualified individual with the appropriate level of skill and knowledge to oversee data collection and submission.

(e)(i) A hospital must release to the department, or grant the department access to, its hospital-specific information contained in the reports submitted under this subsection (2), as requested by the department consistent with RCW 70.02.050.

(ii) The hospital reports obtained by the department under this subsection (2), and any of the information contained in them, are not

subject to discovery by subpoena or admissible as evidence in a civil proceeding, and are not subject to public disclosure as provided in RCW 42.56.360.

(3) The department shall:

(a) Provide oversight of the health care-associated infection reporting program established in this section;

(b) By January 1, ~~((2011))~~ 2014, and biennially thereafter, submit a report to the appropriate committees of the legislature ~~((based on the recommendations of the advisory committee established in subsection (5) of this section for additional reporting requirements related to health care associated infections, considering the methodologies and practices of the United States centers for disease control and prevention, the centers for medicare and medicaid services, the joint commission, the national quality forum, the institute for healthcare improvement, and other relevant organizations))~~ that contains: (i) Categories of reporting currently required of hospitals under subsection (2)(a) of this section; (ii) categories of reporting the department plans to add, delete, or modify by rule; and (iii) a description of the evaluation process used under (f) of this subsection;

~~(c) ((Delete, by rule, the reporting of categories that the department determines are no longer necessary to protect public health and safety;~~

~~—(d)) By December 1, 2016, report to the appropriate committees of the legislature with an update on the categories of reporting required under subsection (2)(a) of this section, any plans for federal reporting requirements on the categories, and recommendations for an expiration of the reporting requirements;~~

(d) By rule, delete, add, or modify categories of reporting when the department determines that it is necessary to align state reporting with the reporting categories of the centers for medicare and medicaid services. The department shall begin rule making forty-five calendar days, or as soon as practicable, after the centers for medicare and medicaid services adopts changes to reporting requirements;

~~(e) By December 1, 2009, and by each December 1st thereafter, prepare and publish a report on the department's web site that compares the health care-associated infection rates at individual hospitals in the state using the data reported in the previous calendar year pursuant to subsection (2) of this section. The department may update the reports quarterly. In developing a methodology for the report and determining its contents, the department shall consider the recommendations of the advisory committee established in subsection (5) of this section. The report is subject to the following:~~

~~(i) The report must disclose data in a format that does not release health information about any individual patient; and~~

~~(ii) The report must not include data if the department determines that a data set is too small or possesses other characteristics that make it otherwise unrepresentative of a hospital's particular ability to achieve a specific outcome; ~~((and~~~~

~~—(e)) (f) Evaluate, on a regular basis, the quality and accuracy of health care-associated infection reporting required under subsection (2) of this section and the data collection, analysis, and reporting methodologies; and~~

(g) Provide assistance to hospitals with the reporting requirements of this chapter including definitions of required reporting elements.

(4) The department may respond to requests for data and other information from the data required to be reported under subsection (2) of this section, at the requestor's expense, for special studies and analysis consistent with requirements for confidentiality of patient records.

(5)(a) The department shall establish an advisory committee which may include members representing infection control professionals and epidemiologists, licensed health care providers, nursing staff, organizations that represent health care providers and facilities, health maintenance organizations, health care payers and consumers, and the department. The advisory committee shall make recommendations to assist the department in carrying out its

responsibilities under this section, including making recommendations on allowing a hospital to review and verify data to be released in the report and on excluding from the report selected data from certified critical access hospitals. ~~((Annually, beginning January 1, 2011, the advisory committee shall also make a recommendation to the department as to whether current science supports expanding presurgical screening for methicillin-resistant staphylococcus aureus prior to open chest cardiac, total hip, and total knee elective surgeries.))~~

(b) In developing its recommendations, the advisory committee shall consider methodologies and practices related to health care-associated infections of the United States centers for disease control and prevention, the centers for medicare and medicaid services, the joint commission, the national quality forum, the institute for healthcare improvement, and other relevant organizations.

(6) The department shall adopt rules as necessary to carry out its responsibilities under this section."

On page 1, line 2 of the title, after "reporting;" strike the remainder of the title and insert "and amending RCW 43.70.056."

and the same is herewith transmitted.

Brad Hendrickson Deputy Secretary

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

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to House Bill No. 1471 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

April 16, 2013

Mr. Speaker:

The Senate has passed Engrossed Substitute House Bill No. 1552 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 3.** RCW 9A.48.100 and 1984 c 273 s 4 are each amended to read as follows:

For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive:

(1) "Physical damage", in addition to its ordinary meaning, shall include the total or partial alteration, damage, obliteration, or erasure of records, information, data, computer programs, or their computer representations, which are recorded for use in computers or the impairment, interruption, or interference with the use of such records, information, data, or computer programs, or the impairment, interruption, or interference with the use of any computer or services provided by computers. "Physical damage" also includes any diminution in the value of any property as the consequence of an act and the cost to repair any physical damage;

(2) If more than one item of property is physically damaged as a result of a common scheme or plan by a person and the physical damage to the property would, when considered separately, constitute mischief in the third degree because of value, then the value of the damages may be aggregated in one count. If the sum of the value of all the physical damages exceeds two hundred fifty dollars, the defendant may be charged with and convicted of malicious mischief in the second degree.

**Sec. 4.** RCW 9A.56.030 and 2012 c 233 s 2 are each amended to read as follows:

(1) A person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) five thousand dollars in value other than a firearm as defined in RCW 9.41.010;

(b) Property of any value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, taken from the person of another;

(c) A search and rescue dog, as defined in RCW 9.91.175, while the search and rescue dog is on duty; or

(d) Commercial metal ~~((wire, taken from a public service company, as defined in RCW 80.04.010, or a consumer owned utility, as defined in RCW 19.280.020,))~~ property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the ~~((public service company's or consumer owned utility's))~~ owner's property exceed five thousand dollars in value.

(2) Theft in the first degree is a class B felony.

**Sec. 5.** RCW 9A.56.040 and 2012 c 233 s 3 are each amended to read as follows:

(1) A person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) seven hundred fifty dollars in value but does not exceed five thousand dollars in value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle;

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant;

(c) Commercial metal ~~((wire, taken from a public service company, as defined in RCW 80.04.010, or a consumer owned utility, as defined in RCW 19.280.020,))~~ property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the ~~((public service company's or consumer owned utility's))~~ owner's property exceed seven hundred fifty dollars but does not exceed five thousand dollars in value; or

(d) An access device.

(2) Theft in the second degree is a class C felony.

**Sec. 6.** RCW 19.290.010 and 2008 c 233 s 1 are each amended to read as follows:

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

(1) "Commercial account" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under RCW 19.290.030.

(2) "Commercial enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including but not limited to a telephone, commercial mobile radio services, cable, electric, water, natural gas, or other utility, or railroad; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels made from one inch tubing, forty-two inches high with four-inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes.

(4) "Nonferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys. "Nonferrous metal property" does not include precious metals.

(5) "Precious metals" means gold, silver, and platinum.

(6) "Private metal property" means catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

(7) "Record" means a paper, electronic, or other method of storing information.

(8) "Scrap metal business" means a scrap metal supplier, scrap metal ~~((recycling center))~~ recycler, and scrap metal processor.

(9) "Scrap metal processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic bailer, shearing device, or shredding device for recycling.

(10) "Scrap metal ~~((recycling center))~~ recycler" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of aggregation and sale to another scrap metal business and that maintains a fixed place of business within the state.

(11) "Scrap metal supplier" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property or nonferrous metal property for the purpose of aggregation and sale to a scrap metal ~~((recycling center))~~ recycler or scrap metal processor and that does not maintain a fixed business location in the state.

(12) "Transaction" means a pledge, or the purchase of, or the trade of any item of private metal property or nonferrous metal property by a scrap metal business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of private metal property or nonferrous metal property by a scrap metal business from a commercial enterprise, from another scrap metal business, or from a duly authorized employee or agent of the commercial enterprise or scrap metal business.

(13) "Engage in business" means conducting more than twelve transactions in a twelve-month period.

(14) "Person" means an individual, domestic or foreign corporation, limited liability corporation, partnership, trust, unincorporated association, or other entity; an affiliate or associate of any such person; or any two or more persons acting as a partnership, syndicate, or other group for the purpose of acquiring, holding, or dispersing of securities of a domestic or foreign corporation.

**Sec. 7.** RCW 19.290.020 and 2008 c 233 s 2 are each amended to read as follows:

(1) At the time of a transaction, every scrap metal business doing business in this state shall produce wherever that business is conducted an accurate and legible record of each transaction involving private metal property or nonferrous metal property. This record must be written in the English language, documented on a standardized form or in electronic form, and contain the following information:

(a) The signature of the person with whom the transaction is made;

(b) The time, date, location, and value of the transaction;

(c) The name of the employee representing the scrap metal business in the transaction;

(d) The name, street address, and telephone number of the person with whom the transaction is made;

(e) The license plate number and state of issuance of the license plate on the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;

(f) A description of the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;

(g) The current driver's license number or other government-issued picture identification card number of the seller or a copy of the seller's government-issued picture identification card; and

(h) A description of the predominant types of private metal property or nonferrous metal property subject to the transaction, ~~((including the property's classification code as provided in))~~ utilizing the institute of scrap recycling industries' ((scrap specifications circular, 2006)) generally accepted terminology, and including weight, quantity, or volume.

(2) For every transaction that involves private metal property or nonferrous metal property, every scrap metal business doing business in the state shall require the person with whom a transaction is being made to sign a declaration. The declaration may be included as part of the transactional record required under subsection (1) of this section, or on a receipt for the transaction. The declaration must state substantially the following:

"I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

The declaration must be signed and dated by the person with whom the transaction is being made. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration accordingly before any transaction may be consummated.

(3) The record and declaration required under this section must be open to the inspection of any commissioned law enforcement officer of the state or any of its political subdivisions at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, and must be maintained wherever that business is conducted for ~~((one))~~ five years following the date of the transaction.

**Sec. 8.** RCW 19.290.030 and 2008 c 233 s 3 are each amended to read as follows:

(1) No scrap metal business may enter into a transaction to purchase or receive private metal property or nonferrous metal property from any person who cannot produce at least one piece of current government-issued picture identification, including a valid driver's license or identification card issued by any state.

(2) No scrap metal business may purchase or receive private metal property or commercial metal property unless the seller: (a) Has a commercial account with the scrap metal business; (b) can prove ownership of the property by producing written documentation that the seller is the owner of the property; or (c) can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

(3) No scrap metal business may enter into a transaction to purchase or receive metallic wire that was burned in whole or in part to remove insulation unless the seller can produce written proof to the scrap metal business that the wire was lawfully burned.

~~(4)~~(a) No transaction involving private metal property or nonferrous metal property ~~((valued at greater than thirty dollars))~~ may be made in cash or with any person who does not provide a street address under the requirements of RCW 19.290.020 except as described in (b) of this subsection. ~~((For transactions valued at greater than thirty dollars,))~~ The person with whom the transaction is being made may only be paid by a nontransferable check, mailed by the scrap metal business to a street address provided under RCW 19.290.020, no earlier than ~~((ten))~~ three days after the transaction was made. A transaction occurs on the date provided in the record required under RCW 19.290.020.

(b) A scrap metal business that is in compliance with this chapter that digitally captures: (i) A copy of one piece of current government-issued picture identification, including a current driver's license or identification card issued by any state and (ii) either a picture or video of either the material subject to the transaction in the form received or the material subject to the transaction within the vehicle which the material was transported to the scrap metal business, may pay up to a maximum of thirty dollars in cash, stored value device, or electronic funds transfer. The balance of the value of the transaction may be

made by nontransferable check, stored value device, or electronic funds transfer at the time the transaction is made. A scrap metal business's usage of video surveillance shall be sufficient to comply with this subsection (4)(b)(ii) as long as the video captures the material subject to the transaction. A digital image or picture taken under this subsection must be available for two years from the date of transaction, while a video recording must be available for thirty days.

(5) No scrap metal business may purchase or receive beer kegs from anyone except a manufacturer of beer kegs or licensed brewery.

**Sec. 9.** RCW 19.290.040 and 2008 c 233 s 4 are each amended to read as follows:

(1) Every scrap metal business must create and maintain a permanent record with a commercial enterprise, including another scrap metal business, in order to establish a commercial account. That record, at a minimum, must include the following information:

(a) The full name of the commercial enterprise or commercial account;

(b) The business address and telephone number of the commercial enterprise or commercial account; and

(c) The full name of the person employed by the commercial enterprise who is authorized to deliver private metal property, nonferrous metal property, and commercial metal property to the scrap metal business.

(2) The record maintained by a scrap metal business for a commercial account must document every purchase or receipt of private metal property, nonferrous metal property, and commercial metal property from the commercial enterprise. The record must be maintained for three years following the date of the transfer or receipt. The documentation must include, at a minimum, the following information:

(a) The time, date, and value of the property being purchased or received;

(b) A description of the predominant types of property being purchased or received; and

(c) The signature of the person delivering the property to the scrap metal business.

**Sec. 10.** RCW 19.290.050 and 2008 c 233 s 5 are each amended to read as follows:

(1) Upon request by any commissioned law enforcement officer of the state or any of its political subdivisions, every scrap metal business shall furnish a full, true, and correct transcript of the records from the purchase or receipt of private metal property, nonferrous metal property, and commercial metal property involving only a ~~((specific))~~ specified individual, vehicle, or item of private metal property, nonferrous metal property, or commercial metal property. This information may be transmitted within a specified time of not less than two business days to the applicable law enforcement agency electronically, by facsimile transmission, or by modem or similar device, or by delivery of computer disk subject to the requirements of, and approval by, the chief of police or the county's chief law enforcement officer.

(2) Any records created or produced under this section are exempt from disclosure under chapter 42.56 RCW.

(3) If the scrap metal business has good cause to believe that any private metal property, nonferrous metal property, or commercial metal property in his or her possession has been previously lost or stolen, the scrap metal business shall promptly report that fact to the applicable commissioned law enforcement officer of the state, the chief of police, or the county's chief law enforcement officer, together with the name of the owner, if known, and the date when and the name of the person from whom it was received.

(4) Compliance with this section shall not give rise to or form the basis of private civil liability on the part of a scrap metal business or scrap metal recycler.

**Sec. 11.** RCW 19.290.060 and 2008 c 233 s 6 are each amended to read as follows:

(1) Following notification ~~((either verbally or))~~ in writing ~~((s))~~ from a commissioned law enforcement officer of the state or any of its political subdivisions that an item of private metal property, nonferrous metal property, or commercial metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification upon the property. The scrap metal business shall hold the property for a period of time as directed by the applicable law enforcement agency up to a maximum of ten business days.

(2) A commissioned law enforcement officer of the state or any of its political subdivisions shall not place on hold any item of private metal property, nonferrous metal property, or commercial metal property unless that law enforcement agency reasonably suspects that the property is a lost or stolen item. Any hold that is placed on the property must be removed within ten business days after the property on hold is determined not to be stolen or lost and the property must be returned to the owner or released.

**Sec. 12.** RCW 19.290.070 and 2008 c 233 s 7 are each amended to read as follows:

It is a gross misdemeanor under chapter 9A.20 RCW for:

(1) Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of private metal property, nonferrous metal property, or commercial metal property in order to deceive a scrap metal business;

(2) Any scrap metal business to enter into a transaction to purchase or receive any private metal property, nonferrous metal property, or commercial metal property where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated;

(3) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(4) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property from any person under the age of eighteen years or any person who is discernibly under the influence of intoxicating liquor or drugs;

(5) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property with anyone whom the scrap metal business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past ~~((ten))~~ four years whether the person is acting in his or her own behalf or as the agent of another;

(6) Any person to sign the declaration required under RCW 19.290.020 knowing that the private metal property or nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under RCW 19.290.020 constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the private metal property or nonferrous metal property subject to the transaction was stolen;

(7) Any scrap metal business to possess private metal property or commercial metal property that was not lawfully purchased or received under the requirements of this chapter; ~~((or))~~

(8) Any scrap metal business to engage in a series of transactions valued at less than thirty dollars with the same seller for the purposes of avoiding the requirements of RCW 19.290.030(4); or

(9) Any person to knowingly make a false or fictitious oral or



written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, with the intent to deceive a scrap metal business as to the actual seller of the scrap metal.

**Sec. 13.** RCW 19.290.090 and 2008 c 233 s 8 are each amended to read as follows:

The provisions of this chapter do not apply to transactions involving metal from the components of vehicles acquired by vehicle wreckers, hulk haulers, or scrap processors licensed under chapter 46.79 or 46.80 RCW, and acquired in accordance with those laws or transactions conducted by the following:

(1) Motor vehicle dealers licensed under chapter 46.70 RCW;

(2) ~~(Metal from the components of vehicles acquired by vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW, and acquired in accordance with those laws;~~  
~~—(3))~~ Persons in the business of operating an automotive repair facility as defined under RCW 46.71.011; and

~~((4))~~ (3) Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

**NEW SECTION. Sec. 14.** A new section is added to chapter 19.290 RCW to read as follows:

(1) It is unlawful for a person to engage in the business of a scrap metal processor, scrap metal recycler, or scrap metal supplier without having first applied for and received a scrap metal license.

(2)(a) Except as provided in (b) of this subsection, a person or firm engaged in the unlawful activity described in this section is guilty of a gross misdemeanor.

(b) A second or subsequent offense is a class C felony.

**NEW SECTION. Sec. 15.** A new section is added to chapter 19.290 RCW to read as follows:

Application for a scrap metal license or renewal of a scrap metal license shall be made on a form for this purpose, furnished by the department of licensing, and shall be signed by the license holder or his or her authorized agent and shall include the following information:

(1) Name and address of the person, firm, partnership, association, limited liability company, or corporation under which name the business is to be conducted;

(2) Names and residence address of all persons having an interest in the business or, if the owner is a corporation, the names and addresses of the officers thereof;

(3) Certificate of approval of the chief executive officer or chief of police, or a designee, if the application is for a license within an incorporated city or town or, in any unincorporated area, the county legislative authority, the sheriff, or a designee, certifying that:

(a) The applicant has an established place of business at the address shown on the application;

(b) There are no known environmental, building code, zoning, or other land use regulation violations associated with the business being located at the address; and

(c) In the case of a renewal of a scrap metal license, the applicant is in compliance with this chapter: PROVIDED, That an authorized representative of the department of licensing may make the certification described in this section in any instance;

(4) Any other information that the department of licensing may require.

**NEW SECTION. Sec. 16.** A new section is added to chapter 19.290 RCW to read as follows:

The application, together with the required fee, shall be forwarded to the department of licensing. Upon receipt of the application the department shall, if the application is in order, issue a scrap metal license authorizing the processor, recycler, or supplier to do business as such and forward the fee to the state treasurer. Upon receiving the certificate, the owner shall cause it to be prominently displayed in the place of business, where it may be inspected by an investigating officer at any time. Every license must be issued in the

name of the applicant and the holder thereof may not allow any other person to use the license.

**NEW SECTION. Sec. 17.** A new section is added to chapter 19.290 RCW to read as follows:

Before issuing a scrap metal license to a scrap metal processor or scrap metal recycler, the department of licensing shall require the applicant to file with the department a surety bond in the amount of ten thousand dollars, running to the state of Washington, and executed by a surety company authorized to do business in the state of Washington. The bond shall be approved as to form by the attorney general and conditioned upon the licensee conducting the business in conformity with the provisions of this chapter. Except as prohibited elsewhere in this chapter, any person who has suffered loss or damage by reason of fraud or gross negligence, or an intentional or reckless violation of the terms of this chapter, or misrepresentation on the part of the scrap metal processor or recycler, may institute an action for recovery against the licensee and surety upon the bond. However, the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond.

**NEW SECTION. Sec. 18.** A new section is added to chapter 19.290 RCW to read as follows:

A license issued on the scrap metal license application remains in force until suspended or revoked and may be renewed annually upon reapplication and upon payment of the required fee. A licensee who fails or neglects to renew the license before the assigned expiration date shall pay the fee for an original scrap metal license as provided in this chapter.

Whenever a scrap metal processor, recycler, or supplier ceases to do business as such or the license has been suspended or revoked, the licensee shall immediately surrender the license to the department of licensing.

**NEW SECTION. Sec. 19.** A new section is added to chapter 19.290 RCW to read as follows:

The licensee shall obtain a special set of license plates in addition to the regular licenses and plates required for the operation of such vehicles. The special plates must be displayed on vehicles owned and/or operated by the licensee and used in the conduct of the business. The fee for these plates shall be five dollars for the original plates and two dollars for each additional set of plates bearing the same license number. A licensee with more than one licensed location in the state may use special plates bearing the same license number for vehicles operated out of any of the licensed locations.

**NEW SECTION. Sec. 20.** A new section is added to chapter 19.290 RCW to read as follows:

The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

**NEW SECTION. Sec. 21.** A new section is added to chapter 19.290 RCW to read as follows:

If a person whose scrap metal license has previously been canceled for cause by the department of licensing files an application for a license to conduct business as a scrap metal processor, recycler, or supplier, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department may refuse to issue the person a license to conduct business as a scrap metal processor, recycler, or supplier.

**NEW SECTION. Sec. 22.** A new section is added to chapter 19.290 RCW to read as follows:

(1) The director of licensing is hereby authorized to adopt reasonable rules and regulations not in conflict with provisions hereof for the proper operation and enforcement of this chapter.

(2) The director shall set all license and renewal fees in accordance with RCW 43.24.086.

**NEW SECTION. Sec. 23.** A new section is added to chapter 19.290 RCW to read as follows:

The chiefs of police, the county sheriffs, and the Washington state patrol may make periodic inspection of the licensee's licensed premises and records provided for in this chapter during normal business hours, and furnish a certificate of inspection to the department of licensing in such manner as may be determined by the department. In any instance, an authorized representative of the department may make the inspection. Licensees are subject to unannounced periodic inspections, as described in this section.

**NEW SECTION. Sec. 24.** A new section is added to chapter 19.290 RCW to read as follows:

The state of Washington hereby fully occupies and preempts the entire field of regulation of scrap metal processors, recyclers, or suppliers within the boundaries of the state. Any political subdivision in this state may enact or enforce only those laws and ordinances relating to the regulation of scrap metal processors, recyclers, or suppliers that are specifically authorized by state law and are consistent with this chapter. Nothing in this chapter is intended to limit the authority of any political subdivision to impose generally applicable zoning, land use, permitting, general business licensing, environmental, and health and safety requirements or authorized business taxes upon scrap metal processors, recyclers, or suppliers within their jurisdictions. Local ordinances pertaining specifically to scrap metal processors, recyclers, or suppliers shall have the same or lesser penalty as provided for by state law. Local scrap metal laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law shall not be enacted and are hereby preempted and repealed, regardless of the code, charter, or home rule status of such political subdivision.

**NEW SECTION. Sec. 25.** A new section is added to chapter 19.290 RCW to read as follows:

(1) In addition to the powers granted in chapter 18.235 RCW, the department of licensing or its authorized agent may examine or subpoena any persons, books, papers, records, data, vehicles, or metal property bearing upon the investigation or proceeding under this chapter.

(2) The persons subpoenaed may be required to testify and produce any books, papers, records, data, vehicles, or metal property that the director of licensing deems relevant or material to the inquiry.

(3) The director of the department of licensing or an authorized agent may administer an oath to the person required to testify, and a person giving false testimony after the administration of the oath is guilty of perjury in the first degree under RCW 9A.72.020.

(4)(a) Any authorized representative of the director of the department of licensing 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 records or documents are located, or in Thurston county. The application must:

- (i) State that an order is sought pursuant to this subsection;
- (ii) Adequately specify the records, documents, or testimony; and
- (iii) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection 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 agency to subpoena the records or testimony.

(c) Any authorized representative of the director of the department of licensing may seek approval and a court may issue an order under this subsection 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.

(5) Any records created or produced under this section are exempt from disclosure under chapter 42.56 RCW.

**NEW SECTION. Sec. 26.** A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall establish a grant program to assist local law enforcement agencies in the support of special enforcement emphasis targeting metal theft. Grant applications shall be reviewed and awarded through peer review panels. Grant applicants are encouraged to utilize multijurisdictional efforts.

(2) Each grant applicant shall:

(a) Show a significant metal theft problem in the jurisdiction or jurisdictions receiving the grant;

(b) Verify that grant awards are sufficient to cover increased investigation, prosecution, and jail costs;

(c) Design an enforcement program that best suits the specific metal theft problem in the jurisdiction or jurisdictions receiving the grant;

(d) Demonstrate community coordination focusing on prevention, intervention, and suppression; and

(e) Collect data on performance.

(3) The cost of administering the grants shall not exceed sixty thousand dollars, or three percent of appropriated funding, whichever is greater.

(4) Grant awards may not be used to supplant preexisting funding sources for special enforcement targeting metal theft.

**NEW SECTION. Sec. 27.** A new section is added to chapter 19.290 RCW to read as follows:

(1) Law enforcement agencies may register with the scrap theft alert system that is maintained and provided at no charge to users by the institute of scrap recycling industries, incorporated, or its successor organization, to receive alerts regarding thefts of private, nonferrous, or commercial metal property in the relevant geographic area.

(2) Any business licensed under this chapter shall:

(a) Sign up with the scrap theft alert system that is maintained and provided at no charge to users by the institute of scrap recycling industries, incorporated, or its successor organization, to receive alerts regarding thefts of private, nonferrous, or commercial metal property in the relevant geographic area;

(b) Download the scrap metal theft alerts generated by the scrap theft alert system on a daily basis;

(c) Use the alerts to identify potentially stolen commercial metal property, nonferrous metal property, and private metal property; and

(d) Maintain for ninety days copies of any theft alerts received and downloaded pursuant to this section.

**Sec. 28.** 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

XVI Aggravated Murder 1 (RCW 10.95.020)

XV Homicide by abuse (RCW 9A.32.055)  
Malicious explosion 1 (RCW 70.74.280(1))

Murder 1 (RCW 9A.32.030)

XIV Murder 2 (RCW 9A.32.050)  
Trafficking 1 (RCW 9A.40.100(1))

XIII Malicious explosion 2 (RCW 70.74.280(2))

Malicious placement of an explosive 1 (RCW 70.74.270(1))

XII 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))
- XI Manslaughter 1 (RCW 9A.32.060)  
 Rape 2 (RCW 9A.44.050)  
 Rape of a Child 2 (RCW 9A.44.076)  
 Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- X Child Molestation 1 (RCW 9A.44.083)  
 Criminal Mistreatment 1 (RCW 9A.42.020)  
 Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
 Kidnapping 1 (RCW 9A.40.020)  
 Leading Organized Crime (RCW 9A.82.060(1)(a))  
 Malicious explosion 3 (RCW 70.74.280(3))  
 Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)  
 Assault of a Child 2 (RCW 9A.36.130)  
 Explosive devices prohibited (RCW 70.74.180)  
 Hit and Run--Death (RCW 46.52.020(4)(a))  
 Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)  
 Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))  
 Malicious placement of an explosive 2 (RCW 70.74.270(2))  
 Robbery 1 (RCW 9A.56.200)  
 Sexual Exploitation (RCW 9.68A.040)
- VIII Arson 1 (RCW 9A.48.020)  
 Commercial Sexual Abuse of a Minor (RCW 9.68A.100)  
 Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)  
 Manslaughter 2 (RCW 9A.32.070)  
 Promoting Prostitution 1 (RCW 9A.88.070)  
 Theft of Ammonia (RCW 69.55.010)  
 Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)  
 Child Molestation 2 (RCW 9A.44.086)  
 Civil Disorder Training (RCW 9A.48.120)  
 Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))  
 Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)  
 Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))  
 Introducing Contraband 1 (RCW 9A.76.140)  
 Malicious placement of an explosive 3 (RCW 70.74.270(3))  
 Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)  
 Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))  
 Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))  
 Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)  
 Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))  
 Bribery (RCW 9A.68.010)  
 Incest 1 (RCW 9A.64.020(1))  
 Intimidating a Judge (RCW 9A.72.160)  
 Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
 Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))  
 Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))  
 Rape of a Child 3 (RCW 9A.44.079)  
 Theft of a Firearm (RCW 9A.56.300)  
 Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)  
 Advancing money or property for extortionate extension of credit (RCW 9A.82.030)  
 Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))  
 Child Molestation 3 (RCW 9A.44.089)  
 Criminal Mistreatment 2 (RCW 9A.42.030)  
 Custodial Sexual Misconduct 1 (RCW 9A.44.160)  
 Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))  
 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)  
 Driving While Under the Influence (RCW 46.61.502(6))  
 Extortion 1 (RCW 9A.56.120)  
 Extortionate Extension of Credit (RCW 9A.82.020)  
 Extortionate Means to Collect

- Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run -Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel -Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(2))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- 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)
- Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Criminal Gang Intimidation (RCW 9A.46.120)
- Custodial Assault (RCW 9A.36.100)
- Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- 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	(second or subsequent offense)
Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))	(section 12 of this act)
Securities Act violation (RCW 21.20.400)	Theft 1 (RCW 9A.56.030)
Tampering with a Witness (RCW 9A.72.120)	Theft of a Motor Vehicle (RCW 9A.56.065)
Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))	Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
Theft of Livestock 2 (RCW 9A.56.083)	Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
Theft with the Intent to Resell 1 (RCW 9A.56.340(2))	Trafficking in Insurance Claims (RCW 48.30A.015)
Trafficking in Stolen Property 2 (RCW 9A.82.055)	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))	Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
Unlawful Imprisonment (RCW 9A.40.040)	Unlawful Practice of Law (RCW 2.48.180)
Unlawful possession of firearm in the second degree (RCW 9.41.040(2))	Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))	Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))	Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))	Voyeurism (RCW 9A.44.115)
Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)	I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
Willful Failure to Return from Work Release (RCW 72.65.070)	False Verification for Welfare (RCW 74.08.055)
II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))	Forgery (RCW 9A.60.020)
Computer Trespass 1 (RCW 9A.52.110)	Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
Counterfeiting (RCW 9.16.035(3))	Malicious Mischief 2 (RCW 9A.48.080)
Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))	Mineral Trespass (RCW 78.44.330)
Escape from Community Custody (RCW 72.09.310)	Possession of Stolen Property 2 (RCW 9A.56.160)
Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.132)	Reckless Burning 1 (RCW 9A.48.040)
Health Care False Claims (RCW 48.80.030)	Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
Identity Theft 2 (RCW 9.35.020(3))	Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
Improperly Obtaining Financial Information (RCW 9.35.010)	Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
Malicious Mischief 1 (RCW 9A.48.070)	Theft 2 (RCW 9A.56.040)
Organized Retail Theft 2 (RCW 9A.56.350(3))	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))
Possession of Stolen Property 1 (RCW 9A.56.150)	Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
Possession of a Stolen Vehicle (RCW 9A.56.068)	Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))
Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))	Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
Scrap Processing, Recycling, or Supplying Without a License	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))

**NEW SECTION. Sec. 29.** A new section is added to chapter 19.290 RCW to read as follows:

(1) The following personal property is subject to seizure and forfeiture and no property right exists in them: All personal property including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which the seizing agency proves by a preponderance of the evidence was used or intended to be used by its owner or the person in charge to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, or which the seizing agency proves by a preponderance of the evidence was knowingly or intentionally furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, a crime involving theft, trafficking, or the unlawful possession of commercial metal property, or which the property owner acquired in whole or in part with proceeds traceable to a knowing or intentional commission of a crime involving the theft, trafficking, or unlawful possession of commercial metal property provided that such activity is not less than a class C felony; except that:

(a) No vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the seizing agency proves by a preponderance of the evidence that the owner or other person in charge of the vehicle is a consenting party or is privy to any crime involving theft, trafficking, or the unlawful possession of commercial metal property;

(b) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had actual or constructive knowledge of nor consented to the commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property; and

(c) A property owner's property is not subject to seizure if an employee or agent of that property owner uses the property owner's property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent.

(2) The following real property is subject to seizure and forfeiture and no property right exists in them: All real property, including any

right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements, that the seizing agency proves by a preponderance of the evidence are being used with the knowledge of the owner for the intentional commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property, or which have been acquired in whole or in part with proceeds traceable to the commission of any crime involving the trafficking, theft, or unlawful possession of commercial metal, if such activity is not less than a class C felony and a substantial nexus exists between the commission of the violation or crime and the real property. However:

(a) No property may be forfeited pursuant to this subsection (2), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's actual or constructive knowledge; and further, a property owner's real property is not subject to seizure if an employee or agent of that property owner uses the property owner's real property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent; and

(b) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, neither had actual or constructive knowledge, nor consented to the act or omission.

(3) Property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.

(4) In the event of seizure pursuant to this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure of personal property may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property.

(7) At the hearing, the seizing agency has the burden of proof to establish by a preponderance of the evidence that seized property is subject to forfeiture, and that the use or intended use of the seized property in connection with a crime pursuant to this section occurred with the owner's actual or constructive knowledge or consent. The person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property has the burden of proof to establish by a preponderance of the evidence that the person owns or has a right to possess the seized property. The possession of bare legal title is not sufficient to establish ownership of seized property if the seizing agency proves by a preponderance of the evidence that the person claiming ownership or right to possession is a nominal owner and did not actually own or exert a controlling interest in the property.

The seizing law enforcement agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(8) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:

(a) Retain it for official use or, upon application by any law enforcement agency of this state, release such property to such agency; or

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public.

(9)(a) Within one hundred twenty days after the entry of an order of forfeiture, each seizing agency shall remit to, if known, the victim

of the crime involving the seized property, an amount equal to fifty percent of the net proceeds of any property forfeited.

(b) Retained property and net proceeds not required to be paid to victims shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(c) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages.

(d) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

**NEW SECTION. Sec. 30.** A new section is added to chapter 19.290 RCW to read as follows:

The provisions of this chapter shall be liberally construed to the end that traffic in stolen private metal property or nonferrous metal property may be prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of processing, recycling, or supplying scrap metal in this state and reliable persons may be encouraged to engage in businesses of processing, recycling, or supplying scrap metal in this state.

**Sec. 31.** RCW 18.235.020 and 2010 c 179 s 18 are each amended to read as follows:

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

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

- (i) Auctioneers under chapter 18.11 RCW;
- (ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;
- (iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;
- (iv) Commercial telephone solicitors under chapter 19.158 RCW;
- (v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;
- (vi) Court reporters under chapter 18.145 RCW;
- (vii) Driver training schools and instructors under chapter 46.82 RCW;
- (viii) Employment agencies under chapter 19.31 RCW;
- (ix) For hire vehicle operators under chapter 46.72 RCW;
- (x) Limousines under chapter 46.72A RCW;
- (xi) Notaries public under chapter 42.44 RCW;
- (xii) Private investigators under chapter 18.165 RCW;
- (xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;  
 (xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

~~(xvii)~~ (xviii) Security guards under chapter 18.170 RCW;  
~~(xviii)~~ (xix) Sellers of travel under chapter 19.138 RCW;  
~~(xix)~~ (xx) Timeshares and timeshare salespersons under chapter 64.36 RCW;

~~(xx)~~ (xxi) Whitewater river outfitters under chapter 79A.60 RCW;

~~(xxi)~~ (xxii) Home inspectors under chapter 18.280 RCW;  
~~(xxii)~~ (xxiii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

~~(xxiii)~~ (xxiv) Appraisal management companies under chapter 18.310 RCW.

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

(i) The state board (~~of registration~~) for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

**Sec. 32.** RCW 43.24.150 and 2011 c 298 s 25 are each amended to read as follows:

(1) The business and professions account is created in the state treasury. All receipts from business or professional licenses, registrations, certifications, renewals, examinations, or civil penalties assessed and collected by the department from the following chapters must be deposited into the account:

- (a) Chapter 18.11 RCW, auctioneers;
- (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- (c) Chapter 18.145 RCW, court reporters;
- (d) Chapter 18.165 RCW, private investigators;
- (e) Chapter 18.170 RCW, security guards;
- (f) Chapter 18.185 RCW, bail bond agents;
- (g) Chapter 18.280 RCW, home inspectors;
- (h) Chapter 19.16 RCW, collection agencies;
- (i) Chapter 19.31 RCW, employment agencies;
- (j) Chapter 19.105 RCW, camping resorts;
- (k) Chapter 19.138 RCW, sellers of travel;
- (l) Chapter 42.44 RCW, notaries public;
- (m) Chapter 64.36 RCW, timeshares;
- (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- (p) Chapter 79A.60 RCW, whitewater river outfitters; ~~(and)~~

(q) Chapter 19.158 RCW, commercial telephone solicitation; and  
~~(r) Chapter 19.290 RCW, scrap metal businesses.~~

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out these business and professions licensing activities of the department. Any residue in the account must be accumulated and may not revert to the general fund at the end of the biennium.

(2) The director must biennially prepare a budget request based on the anticipated costs of administering the business and professions licensing activities listed in subsection (1) of this section, which must include the estimated income from these business and professions fees.

**NEW SECTION. Sec. 33.** A new section is added to chapter 43.43 RCW to read as follows:

(1) Beginning on July 1, 2014, when funded, the Washington association of sheriffs and police chiefs shall implement and operate an ongoing electronic statewide no-buy list database program.

(2) The database must be made available on a web site.

(3) The no-buy list database program shall allow for any scrap metal business to enter a customer's name and date of birth into the database. The database must determine if the customer pursuing the transaction with the scrap metal business has been convicted in Washington of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years.

(4) If the customer has been convicted of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years despite whether the person was acting in his or her own behalf or as the agent of another then, at a minimum, the no-buy list database program must immediately send an alert to the scrap metal business stating: (a) That the customer is listed on a current no-buy list, (b) the four-year expiration period for the customer's most recent crime listed, and (c) a notification that entering into a transaction with the customer is prohibited under RCW 19.290.070.

**NEW SECTION. Sec. 34.** A new section is added to chapter 19.290 RCW to read as follows:

A scrap metal business shall, before completing any transaction under this chapter, determine whether such customer is listed in the Washington association of sheriffs and police chiefs no-buy list database program established and made available under section 31 of this act.

**NEW SECTION. Sec. 35.** A new section is added to chapter 43.43 RCW to read as follows:

The Washington association of sheriffs and police chiefs shall not be held liable for civil damages resulting from any act or omission in carrying out the requirements of section 31 of this act other than an act or omission constituting gross negligence or willful or wanton misconduct.

**NEW SECTION. Sec. 36.** If one million five hundred thousand dollars for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2013, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 37.** Sections 12 through 23 of this act take effect January 1, 2014.

**NEW SECTION. Sec. 38.** The director of the department of licensing may take the necessary steps to ensure that sections 12 through 23 of this act are implemented on January 1, 2014."

On page 1, line 1 of the title, after "theft;" strike the remainder of the title and insert "amending RCW 9A.48.100, 9A.56.030, 9A.56.040, 19.290.010, 19.290.020, 19.290.030, 19.290.040, 19.290.050, 19.290.060, 19.290.070, 19.290.090, 18.235.020, and 43.24.150; reenacting and amending RCW 9.94A.515; adding new sections to chapter 19.290 RCW; adding a new section to chapter 36.28A RCW; adding new sections to chapter 43.43 RCW; creating new sections; prescribing penalties; and providing an effective date."



and the same is herewith transmitted.

Hunter Goodman Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House refused to concur in the Senate amendment to Engrossed Substitute House Bill No. 1552 and asked the Senate to recede therefrom.

**MESSAGE FROM THE SENATE**

April 17, 2013

Mr. Speaker:

The Senate has passed Engrossed House Bill No. 1733 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 39.** The intent of the legislature is to make state capital budget and transportation budget appropriation and expenditure data as transparent and easy to use by the public as is feasible. It is important to provide information to the public on state capital and transportation investments by legislative district and county in a format that is easy to navigate and comprehend. Providing such information contributes to governmental accountability, public participation, agency efficiency, and open government.

**Sec. 40.** RCW 44.48.150 and 2008 c 326 s 2 are each amended to read as follows:

(1) By January 1, 2009, in collaboration with the office of financial management, using existing databases and structures currently shared, the office of the legislative evaluation and accountability program committee shall establish and make available to the public a searchable state expenditure information web site. The state expenditure information web site shall provide access to current budget data, access to current accounting data for budgeted expenditures and staff, and access to historical data. At a minimum, the web site will provide access or links to the following information as data are available:

- (a) State expenditures by fund or account;
- (b) State expenditures by agency, program, and subprogram;
- (c) State revenues by major source;
- (d) State expenditures by object and subobject;
- (e) State agency workloads, caseloads, and performance measures, and recent performance audits; and
- (f) State agency budget data by activity.

(2) "State agency," as used in this section, includes every state agency, office, board, commission, or institution of the executive, legislative, or judicial branches, including institutions of higher education.

(3) The state expenditure information web site shall be updated periodically as subsequent fiscal year data become available, and the prior year expenditure data shall be maintained by the legislative evaluation and accountability program committee as part of its ten-year historical budget data.

(4) For each capital appropriation bill considered by the full body or fiscal committees of either chamber of the legislature it must be accompanied by a summary of capital appropriations by legislative district. The summary of capital appropriations by legislative district must include the following categories for each legislative district:

- (a) The total level of all appropriations:
  - (i) The level of appropriations attributable to competitive grant and loan programs;
  - (ii) The level of appropriations to state institutions of higher

education:

(iii) The level of appropriations for state agency facilities other than higher education; and

(iv) The level of all other appropriations which are attributable to an individual district.

(b) The summary of capital appropriations required by this section must include the percent of total capital appropriations each legislative district would receive.

(c) For the purposes of this section, a capital appropriation bill includes the original capital appropriations bill filed by a member of the house or the senate, any substitute bill, and any striking amendment.

(5) By January 1, 2014, current and future capital project and transportation project investments must be coded with the geographic information sufficient to permit the public to search and identify appropriation and expenditure data at the parent and subproject level to the extent available by:

- (a) State legislative district;
- (b) County; and
- (c) Agency project identifier.

(6) The office of the legislative evaluation and accountability program committee must, within existing resources, update the state expenditure information web site to allow the public to search for capital budget and transportation projects by selecting from an online geographical map. The map must allow an in-depth examination of financial and other data associated with such projects. Data elements must include:

- (a) Project title;
- (b) Total appropriation;
- (c) Project description;
- (d) Expenditure data; and
- (e) Administering agency.

(7) The web site must be easy to use, contain current and readily available data, and allow for review and analysis by the public. The legislative evaluation and accountability program committee must test the web site with potential users to ensure that it is easy to navigate and comprehend."

On page 1, line 2 of the title, after "expenditures;" strike the remainder of the title and insert "amending RCW 44.48.150; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson Deputy Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House refused to concur in the Senate amendment to Engrossed House Bill No. 1733 and asked the Senate to recede therefrom.

**MESSAGE FROM THE SENATE**

April 17, 2013

Mr. Speaker:

The Senate has passed House Bill No. 1768 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"Sec. 41.** RCW 39.10.420 and 2012 c 102 s 1 are each amended to read as follows:

(1) The following public bodies are authorized to use the job order contracting procedure:

- (a) The department of enterprise services;

(b) The state universities, regional universities, and The Evergreen State College;

(c) Sound transit (central Puget Sound regional transit authority);

(d) Every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755;

(e) Every county with a population greater than four hundred fifty thousand;

(f) Every port district with total revenues greater than fifteen million dollars per year;

(g) Every public utility district with revenues from energy sales greater than twenty-three million dollars per year;

(h) Every school district; ~~(and)~~

(i) The state ferry system; and

(j) The Washington state department of transportation, for the administration of building improvement, replacement, and renovation projects only.

(2)(a) The department of enterprise services may issue job order contract work orders for Washington state parks department projects.

(b) The department of enterprise services, the University of Washington, and Washington State University may issue job order contract work orders for the state regional universities and The Evergreen State College.

(3) Public bodies may use a job order contract for public works projects when a determination is made that the use of job order contracts will benefit the public by providing an effective means of reducing the total lead-time and cost for the construction of public works projects for repair and renovation required at public facilities through the use of unit price books and work orders by eliminating time-consuming, costly aspects of the traditional public works process, which require separate contracting actions for each small project.

**Sec. 42.** RCW 39.10.440 and 2007 c 494 s 403 are each amended to read as follows:

(1) The maximum total dollar amount that may be awarded under a job order contract is four million dollars per year for a maximum of three years.

(2) Job order contracts may be executed for an initial contract term of not to exceed two years, with the option of extending or renewing the job order contract for one year. All extensions or renewals must be priced as provided in the request for proposals. The extension or renewal must be mutually agreed to by the public body and the job order contractor.

(3) A public body may have no more than two job order contracts in effect at any one time, with the exception of the department of ~~(general administration)~~ enterprise services, which may have four job order contracts in effect at any one time.

(4) At least ninety percent of work contained in a job order contract must be subcontracted to entities other than the job order contractor. The job order contractor must distribute contracts as equitably as possible among qualified and available subcontractors including minority and woman-owned subcontractors to the extent permitted by law.

(5) The job order contractor shall publish notification of intent to perform public works projects at the beginning of each contract year in a statewide publication and in a legal newspaper of general circulation in every county in which the public works projects are anticipated.

(6) Job order contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the rates in effect at the time the individual work order is issued.

(7) If, in the initial contract term, the public body, at no fault of the job order contractor, fails to issue the minimum amount of work orders stated in the public request for proposals, the public body shall

pay the contractor an amount equal to the difference between the minimum work order amount and the actual total of the work orders issued multiplied by an appropriate percentage for overhead and profit contained in the contract award coefficient for services as specified in the request for proposals. This is the contractor's sole remedy.

(8) All job order contracts awarded under this section must be signed before July 1, ~~((2013))~~ 2021; however the job order contract may be extended or renewed as provided for in this section.

(9) Public bodies may amend job order contracts awarded prior to July 1, 2007, in accordance with this chapter.

**Sec. 43.** RCW 39.10.490 and 2007 c 494 s 501 are each amended to read as follows:

The alternative public works contracting procedures authorized under this chapter are limited to public works contracts signed before July 1, ~~((2013))~~ 2021. Methods of public works contracting authorized under this chapter shall remain in full force and effect until completion of contracts signed before July 1, ~~((2013))~~ 2021.

**Sec. 44.** RCW 43.131.407 and 2007 c 494 s 506 are each amended to read as follows:

The alternative ~~((public))~~ public works contracting procedures under chapter 39.10 RCW shall be terminated June 30, ~~((2013))~~ 2021, as provided in RCW 43.131.408.

**Sec. 45.** RCW 43.131.408 and 2012 c 102 s 4 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, ~~((2014))~~ 2022:

(1) RCW 39.10.200 and 2010 1st sp.s. c 21 s 2, 2007 c 494 s 1, & 1994 c 132 s 1;

(2) RCW 39.10.210 and 2010 1st sp.s. c 36 s 6014, 2007 c 494 s 101, & 2005 c 469 s 3;

(3) RCW 39.10.220 and 2007 c 494 s 102 & 2005 c 377 s 1;

(4) RCW 39.10.230 and 2010 1st sp.s. c 21 s 3, 2009 c 75 s 1, 2007 c 494 s 103, & 2005 c 377 s 2;

(5) RCW 39.10.240 and 2007 c 494 s 104;

(6) RCW 39.10.250 and 2009 c 75 s 2 & 2007 c 494 s 105;

(7) RCW 39.10.260 and 2007 c 494 s 106;

(8) RCW 39.10.270 and 2009 c 75 s 3 & 2007 c 494 s 107;

(9) RCW 39.10.280 and 2007 c 494 s 108;

(10) RCW 39.10.290 and 2007 c 494 s 109;

(11) RCW 39.10.300 and 2009 c 75 s 4 & 2007 c 494 s 201;

(12) RCW 39.10.320 and 2007 c 494 s 203 & 1994 c 132 s 7;

(13) RCW 39.10.330 and 2009 c 75 s 5 & 2007 c 494 s 204;

(14) RCW 39.10.340 and 2007 c 494 s 301;

(15) RCW 39.10.350 and 2007 c 494 s 302;

(16) RCW 39.10.360 and 2009 c 75 s 6 & 2007 c 494 s 303;

(17) RCW 39.10.370 and 2007 c 494 s 304;

(18) RCW 39.10.380 and 2007 c 494 s 305;

(19) RCW 39.10.385 and 2010 c 163 s 1;

(20) RCW 39.10.390 and 2007 c 494 s 306;

(21) RCW 39.10.400 and 2007 c 494 s 307;

(22) RCW 39.10.410 and 2007 c 494 s 308;

(23) RCW 39.10.420 and 2013 c . . . s 1 (section 1 of this act), 2012 c 102 s 1, 2009 c 75 s 7, 2007 c 494 s 401, & 2003 c 301 s 1;

(24) RCW 39.10.430 and 2007 c 494 s 402;

(25) RCW 39.10.440 and 2013 c . . . s 2 (section 2 of this act) & 2007 c 494 s 403;

(26) RCW 39.10.450 and 2012 c 102 s 2 & 2007 c 494 s 404;

(27) RCW 39.10.460 and 2012 c 102 s 3 & 2007 c 494 s 405;

(28) RCW 39.10.470 and 2005 c 274 s 275 & 1994 c 132 s 10;

(29) RCW 39.10.480 and 1994 c 132 s 9;

(30) RCW 39.10.490 and 2013 c . . . s 3 (section 3 of this act), 2007 c 494 s 501, & 2001 c 328 s 5;

(31) RCW 39.10.500 and 2007 c 494 s 502;

(32) RCW 39.10.510 and 2007 c 494 s 503;

(33) RCW 39.10.900 and 1994 c 132 s 13;

- (34) RCW 39.10.901 and 1994 c 132 s 14;  
 (35) RCW 39.10.903 and 2007 c 494 s 510;  
 (36) RCW 39.10.904 and 2007 c 494 s 512; and  
 (37) RCW 39.10.905 and 2007 c 494 s 513."

On page 1, line 2 of the title, after "transportation;" strike the remainder of the title and insert "and amending RCW 39.10.420, 39.10.440, 39.10.490, 43.131.407, and 43.131.408."

and the same is herewith transmitted.

Brad Hendrickson Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to House Bill No. 1768 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed SHB 1821 with the following amendments:

On page 4, line 7, after "(IV)" strike "Where" and insert "Until June 30, 2015, where"

On page 4, line 10, after "(V)" strike "Where" and insert "Until June 30, 2015, where"

On page 4, line 7, after "(IV)" strike "Where a" and insert "A"

On page 4, beginning on line 10, after "(V)" strike all material through "service" on line 14 and insert "A parent who has been court ordered to complete services necessary for the child's safe return home files a declaration under penalty of perjury stating the parent's financial inability to pay for the same court-ordered services, and also declares the department was unwilling or unable to pay for the same services necessary for the child's safe return home"

and the same is herewith transmitted.

Brad Hendrickson Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to SHB 1821 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1294 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 70.240 RCW to read as follows:

Beginning July 1, 2015, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state children's products containing TDCPP (tris(1,3-dichloro-2-propyl)phosphate), chemical abstracts service number 13674-87-8, as of the effective date of this section, or TCEP (tris(2-chloroethyl)phosphate), chemical abstracts service number

115-96-8, as of the effective date of this section in amounts greater than one hundred parts per million in any product component.

**Sec. 2.** RCW 70.240.050 and 2008 c 288 s 7 are each amended to read as follows:

(1) A manufacturer of products that are restricted under this chapter must notify persons that sell the manufacturer's products in this state about the provisions of this chapter no less than ninety days prior to the effective date of the restrictions.

(2) A manufacturer that produces, sells, or distributes a product prohibited from manufacture, sale, or distribution in this state under this chapter shall recall the product and reimburse the retailer or any other purchaser for the product.

(3) A manufacturer of children's products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the state toxics control account created in RCW 70.105D.070.

(4) Retailers who unknowingly sell products that are restricted from sale under this chapter are not liable under this chapter.

(5) The sale or purchase of any previously owned product containing a chemical restricted under this chapter made in casual or isolated sales as defined in RCW 82.04.040, or by a nonprofit organization, is exempt from this chapter."

On page 1, line 1 of the title, after "retardants;" strike the remainder of the title and insert "amending RCW 70.240.050; and adding a new section to chapter 70.240 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate Amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1294 and asked the Senate for a conference thereon. The Speaker (Representative Orwall presiding) appointed Representatives Short, Upthegrove and Van De Wege as conferees.

#### MESSAGE FROM THE SENATE

April 12, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1001 with the following amendment:

On page 2, line 5, after "shown" insert ", and includes only theaters with up to four screens"

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1001 and advanced the bill as amended by the Senate to final passage.

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

Representatives Moeller and Condotta 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 House Bill No. 1001, as amended by the Senate.

### MOTIONS

On motion of Representative MacEwan, Representatives DeBolt and Manweller were excused. On motion of Representative Van De Wege, Representatives McCoy and Morris were excused.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1001, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 87; Nays, 7; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Dahlquist, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Hawkins, Hayes, Holy, Hope, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwan, Magendanz, Maxwell, Moeller, Morrell, 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, Stonier, Sullivan, Takko, Tarleton, Taylor, Upthegrove, Van De Wege, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Crouse, Harris, Hudgins, Klippert, Nealey, Stanford and Tharinger.

Excused: Representatives DeBolt, Manweller, McCoy and Morris.

SUBSTITUTE HOUSE BILL NO. 1001, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Substitute House Bill No. 1001.  
Representative Morrell, 25th District

### THIRD READING

### MESSAGE FROM THE SENATE

April 15, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1068 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.95.100 and 2009 c 549 s 4158 are each amended to read as follows:

(1) The tax provided for in RCW 36.95.090 and this section ((shall)) may not exceed sixty dollars per year per television set((and)) within the district. No person ((shall)) may be taxed for more than one television set, except that a motel or hotel or any person owning ((an excess of)) more than five television sets ((shall)) must pay at a rate of one-fifth of the annual tax rate imposed for each of the first five television sets and one-tenth of ((such)) the annual tax rate imposed for each additional television set ((thereafter)).

(2) An owner of a television set within the district ((shall be)) is exempt from paying ((any tax on such set under this chapter. (1) If

either (a) his or her)) the excise tax on the television set if:

(a) The owner's television set does not receive at least a class grade B contour signal retransmitted by the television translator station or other similar device operated by the district, as such class is defined under regulations of the Federal Communications Commission as of August 9, 1971((or (b) he or she));

(b) The owner is currently subscribing to and receiving the services of a community antenna system (CATV) to which ((his or her)) the owner's television set is connected; ((and (2) if he or she filed a statement with the board claiming his or her grounds for exemption. Space for such statement shall be provided for in the tax notice which the treasurer shall send to taxpayers in behalf of the district)) or

(c) The owner is currently subscribing to and receiving the services of a satellite carrier, as that term is defined in 17 U.S.C. Sec. 119, as of January 1, 2013.

(3) To qualify for an exemption specified in subsection (2) of this section, an owner of a television set must file a statement with the board claiming the owner's grounds for an exemption. Space for the statement must be provided in tax notices sent to taxpayers pursuant to RCW 36.95.160.

**Sec. 2.** RCW 36.95.130 and 1985 c 76 s 2 are each amended to read as follows:

In addition to other powers provided for under this chapter, the board ((shall have)) has the following powers:

(1) To perform all acts necessary to assure that the purposes of this chapter will be carried out fairly and efficiently;

(2) To acquire, build, construct, repair, own, maintain, and operate any necessary stations retransmitting visual and aural signals intended to be received by the general public, relay stations, pick-up stations, or any other electrical or electronic system necessary(= ~~PROVIDED, That~~)). However, the board ((shall have)) has no power to originate programs;

(3) To make contracts to compensate any owner of land or other property for the use of such property for the purposes of this chapter;

(4) To make contracts with the United States, or any state, municipality, or any department or agency of those entities for carrying out the general purposes for which the district is formed;

(5) To acquire by gift, devise, bequest, lease, or purchase real and personal property, tangible or intangible, including lands, rights-of-way, and easements, necessary or convenient for its purposes;

(6) To make contracts of any lawful nature (including labor contracts or those for employees' benefits), employ engineers, laboratory personnel, attorneys, other technical or professional assistants, and any other assistants or employees necessary to carry out the provisions of this chapter;

(7) To contract indebtedness or borrow money and to issue warrants or bonds to be paid from district revenues((= ~~PROVIDED, That~~)). The bonds, warrants, or other obligations may be in any form, including bearer or registered as provided in RCW 39.46.030((= ~~PROVIDED FURTHER, That~~)). Moreover, such warrants and bonds may be issued and sold in accordance with chapter 39.46 RCW;

(8) To prescribe excise tax rates for ((the)) providing ((of)) services throughout the area in accordance with the provisions of this chapter; ((and))

(9) To assist the county treasurer in sending tax notices to taxpayers pursuant to RCW 36.95.160; and

(10) To apply for, accept, and be the holder of any permit or license issued by or required under federal or state law.

**Sec. 3.** RCW 36.95.160 and 2009 c 549 s 4161 are each amended to read as follows:

(1) The treasurer of the county in which a district is located ((shall be ex-officio)) is the treasurer of the district.

(2) The county treasurer ((shall)) must collect the excise tax provided for under this chapter and ((shall)) send notice of payment due to persons owing the tax((= ~~PROVIDED, That~~)). To reduce costs of

services performed by the county treasurer, district board members and employees may assist the treasurer in sending tax notices to taxpayers.

(3) Districts with fewer than twelve hundred persons subject to the excise tax and levying an excise tax of forty dollars or more per television set per year ((shall have the option of having the district (1) send the tax notices bimonthly, and (2) collect the excise taxes which shall ~~then~~)) may:

(a) Send tax notices bimonthly; and

(b) Collect excise tax revenue, which must be forwarded to the county treasurer for deposit in the district account. ((There shall be deposited with him or her all funds of the district.))

(4) All district funds must be deposited with the county treasurer. All district payments ((shall be made by him or her from such)) must be made by the county treasurer from district funds upon warrants issued by the county auditor, except the sums to be paid out of any bond fund for principal and interest payments on bonds. All warrants ((shall)) must be paid in the order of issuance.

(5) The treasurer ((shall)) must report monthly to the board, in writing, the amount in the district fund or funds.

**Sec. 4.** RCW 36.95.180 and 1971 ex.s. c 155 s 18 are each amended to read as follows:

(1) The board ((shall)) must reimburse the county auditor, assessor, and treasurer for the actual costs of services performed by them in behalf of the district.

(2) A district may reduce costs of services performed by the county treasurer by assisting the treasurer in sending tax notices to taxpayers pursuant to RCW 36.95.160."

On page 1, line 2 of the title, after "tax;" strike the remainder of the title and insert "and amending RCW 36.95.100, 36.95.130, 36.95.160, and 36.95.180."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1068 and advanced the bill as amended by the Senate to final passage.

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

Representatives Nealey and Carlyle 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 House Bill No. 1068, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1068, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen,

Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, 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 Ryu.

Excused: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1068, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1076 with the following amendment:

On page 1, line 12, after "the" strike "cooperative" and insert "cooperative's reporting district"

On page 1, beginning on line 15, after "in" strike all material through "28A.250.010" on line 16 and insert "alternative learning experience courses or programs as defined by RCW 28A.150.325. Nothing in this section is intended to affect or otherwise modify the superintendent of public instruction's duty to approve and monitor online providers pursuant to RCW 28A.250.020"

and the same is herewith transmitted.

Thomas Hoeman, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1076 and advanced the bill as amended by the Senate to final passage.

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

Representatives Haigh 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 Substitute House Bill No. 1076, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1076, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1076, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1093 with the following amendment:

On page 3, after line 4, insert the following:

"**Sec. 2.** RCW 42.17A.055 and 2010 c 204 s 202 are each amended to read as follows:

(1) The commission shall make available to candidates, public officials, and political committees that are required to file reports under this chapter an electronic filing alternative for submitting financial affairs reports, contribution reports, and expenditure reports.

(2) The commission shall make available to lobbyists and lobbyists' employers required to file reports under RCW 42.17A.600, 42.17A.615, 42.17A.625, or 42.17A.630 an electronic filing alternative for submitting these reports.

(3) State agencies required to report under RCW 42.17A.635 must file all reports electronically.

(4) The commission shall make available to candidates, public officials, political committees, lobbyists, and lobbyists' employers an electronic copy of the appropriate reporting forms at no charge."

Renumber the remaining section consecutively.

On page 1, line 2 of the title, after "42.17A.750" insert "and 42.17A.055"

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1093 and advanced the bill as amended by the Senate to final passage.

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

Representatives Shea and Bergquist 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 House Bill No. 1093, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1093, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1093, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1114 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that persons with a mental illness or developmental disability are more likely to be victimized by crime than to be perpetrators of crime. The legislature further finds that there are a small number of individuals who commit repeated violent acts against others while suffering from the effects of a mental illness and/or developmental disability that both contributes to their criminal behaviors and renders them legally incompetent to be held accountable for those behaviors. The legislature further finds that the primary statutory mechanisms designed to protect the public from violent behavior, either criminal commitment to a corrections institution, or long-term commitment as not guilty by reason of insanity, are unavailable due to the legal incompetence of these individuals to stand trial. The legislature further finds that the existing civil system of short-term commitments under the Washington's involuntary treatment act is insufficient to protect the public from these violent acts. Finally, the legislature finds that changes to the involuntary treatment act to account for this small number of individuals is necessary in order to serve Washington's compelling interest in public safety and to provide for the proper care of these individuals.

**Sec. 2.** RCW 10.77.086 and 2012 c 256 s 6 are each amended to read as follows:

(1)(a) If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, or has been determined unlikely to regain competency pursuant to RCW 10.77.084(1)(b), but in any event for a period of no longer than ninety days, the court:

(i) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment; or

(ii) May alternatively order the defendant to undergo evaluation and treatment at some other facility as determined by the department, or under the guidance and control of a professional person.

(b) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial period of commitment for competency restoration is forty-five days.

(2) On or before expiration of the initial period of commitment under subsection (1) of this section the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent.

(3) If the court finds by a preponderance of the evidence that a defendant charged with a felony is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional period of ninety days, but the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second restoration period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third restoration period as provided in subsection (4) of this section if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension.

(4) For persons charged with a felony, at the hearing upon the expiration of the second restoration period or at the end of the first restoration period, in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, the charges shall be dismissed without prejudice, and the court shall ~~((either order the release of the defendant or))~~ order the defendant be committed to a state hospital ((or secure mental health facility)) as defined in RCW 72.23.010 for up to seventy-two hours starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. The criminal charges shall not be dismissed if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

**Sec. 3.** RCW 10.77.270 and 2010 c 263 s 1 are each amended to read as follows:

(1) The secretary shall establish an independent public safety review panel for the purpose of advising the secretary and the courts with respect to persons who have been found not guilty by reason of insanity, or persons committed under the involuntary treatment act where the court has made a special finding under RCW 71.05.280(3)(b). The panel shall provide advice regarding all recommendations to the secretary, decisions by the secretary, or actions pending in court: (a) For a change in commitment status; (b) to allow furloughs or temporary leaves accompanied by staff; (c) not to seek further commitment terms under RCW 71.05.320; or ((c)) (d) to permit movement about the grounds of the treatment facility, with or without the accompaniment of staff.

(2) The members of the public safety review panel shall be appointed by the governor for a renewable term of three years and shall include the following:

- (a) A psychiatrist;
- (b) A licensed clinical psychologist;
- (c) A representative of the department of corrections;
- (d) A prosecutor or a representative of a prosecutor's association;
- (e) A representative of law enforcement or a law enforcement association;
- (f) A consumer and family advocate representative; and
- (g) A public defender or a representative of a defender's association.

(3) Thirty days prior to issuing a recommendation for conditional release under RCW 10.77.150 or forty-five days prior to issuing a recommendation for release under RCW 10.77.200, the secretary shall submit its recommendation with the committed person's application and the department's risk assessment to the public safety review panel. The public safety review panel shall complete an independent assessment of the public safety risk entailed by the secretary's proposed conditional release recommendation or release recommendation and provide this assessment in writing to the

secretary. The public safety review panel may, within funds appropriated for this purpose, request additional evaluations of the committed person. The public safety review panel may indicate whether it is in agreement with the secretary's recommendation, or whether it would issue a different recommendation. The secretary shall provide the panel's assessment when it is received along with any supporting documentation, including all previous reports of evaluations of the committed person in the person's hospital record, to the court, prosecutor in the county that ordered the person's commitment, and counsel for the committed person.

(4) The secretary shall notify the public safety review panel at appropriate intervals concerning any changes in the commitment or custody status of persons found not guilty by reason of insanity, or persons committed under the involuntary treatment act where the court has made a special finding under RCW 71.05.280(3)(b). The panel shall have access, upon request, to a committed person's complete hospital record, and any other records deemed necessary by the public safety review panel.

(5) The department shall provide administrative and financial support to the public safety review panel. The department, in consultation with the public safety review panel, may adopt rules to implement this section.

(6) By December 1, 2014, the public safety review panel shall report to the appropriate legislative committees the following:

(a) Whether the public safety review panel has observed a change in statewide consistency of evaluations and decisions concerning changes in the commitment status of persons found not guilty by reason of insanity;

(b) Whether the public safety review panel should be given the authority to make release decisions and monitor release conditions;

(c) Whether further changes in the law are necessary to enhance public safety when incompetency prevents operation of the criminal justice system and long-term commitment of the criminally insane; and

(d) Any other issues the public safety review panel deems relevant.

**Sec. 4.** RCW 71.05.280 and 2008 c 213 s 6 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be confined for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of mental disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of mental disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.086(4), and has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts.

(a) In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime;

(b) For any person subject to commitment under this subsection where the charge underlying the finding of incompetence is for a felony classified as violent under RCW 9.94A.030, the court shall determine whether the acts the person committed constitute a violent offense under RCW 9.94A.030; or

(4) Such person is gravely disabled.

**Sec. 5.** RCW 71.05.320 and 2009 c 323 s 2 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment.

(3) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated mental health professional, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of mental disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder or developmental disability a likelihood of serious harm; or

(c) (i) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability continues to present(s) a substantial likelihood of repeating ~~((similar))~~ acts ~~((considering))~~ similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety. (ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty day period whenever the petition presents prima facie evidence that the person continues to suffer from a mental disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the mental disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge from the state hospital; or

(d) Continues to be gravely disabled.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

(4) For a person committed under subsection (2) of this section who has been remanded to a period of less restrictive treatment, in addition to the grounds specified in subsection (3) of this section, the

designated mental health professional may file a new petition for continued less restrictive treatment if:

(a) The person was previously committed by a court to detention for involuntary mental health treatment during the thirty-six months that preceded the person's initial detention date during the current involuntary commitment cycle, excluding any time spent in a mental health facility or in confinement as a result of a criminal conviction;

(b) In view of the person's treatment history or current behavior, the person is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive treatment; and

(c) Outpatient treatment that would be provided under a less restrictive treatment order is necessary to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time.

(5) A new petition for involuntary treatment filed under subsection (3) or (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment. However, a commitment is not permissible under subsection (4) of this section if thirty-six months have passed since the last date of discharge from detention for inpatient treatment that preceded the current less restrictive alternative order, nor shall a commitment under subsection (4) of this section be permissible if the likelihood of serious harm in subsection (4)(c) of this section is based solely on harm to the property of others.

(7) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length.

**Sec. 6.** RCW 71.05.425 and 2011 c 305 s 5 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) to the following:

(i) The chief of police of the city, if any, in which the person will reside; ~~((and))~~

(ii) The sheriff of the county in which the person will reside; and

(iii) The prosecuting attorney of the county in which the criminal charges against the committed person were dismissed.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding



commitment under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings;

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter; and

(iv) The chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of the person on the date of the applicable offense.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person escaped and in which the person resided immediately before the person's arrest and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(3) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 71.05.390(18). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

**Sec. 7.** RCW 10.77.200 and 2010 c 263 s 8 are each amended to read as follows:

(1) Upon application by the committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for release. In making this determination, the secretary may consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case. If the secretary approves the release he or she then shall authorize the person to petition the court.

(2) In instances in which persons have not made application for release, but the secretary believes, after consideration of the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case, that reasonable grounds exist for release, the secretary

may petition the court. If the secretary petitions the court for release under this subsection, notice of the petition must be provided to the person who is the subject of the petition and to his or her attorney.

(3) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for release, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the ~~((petitioner))~~ person who is the subject of the petition examined by an expert or professional person of the prosecuting attorney's choice. If the secretary is the petitioner, the attorney general shall represent the secretary. If the ~~((petitioner))~~ person who is the subject of the petition is indigent, and the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the ~~((petitioner))~~ person who is the subject of the petition has a developmental disability, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the ~~((petitioner))~~ person who is the subject of the petition no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions. If the person who is the subject of the petition will be transferred to a state correctional institution or facility upon release to serve a sentence for any class A felony, the petitioner must show that the person's mental disease or defect is manageable within a state correctional institution or facility, but must not be required to prove that the person does not present either a substantial danger to other persons, or a substantial likelihood of committing criminal acts jeopardizing public safety or security, if released.

(4) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have a mental disease or defect requiring supervision when the disease may, with reasonable medical probability, occasionally become active and, when active, render the person a danger to others. Upon a finding that the ~~((petitioner))~~ person who is the subject of the petition has a mental disease or defect in a state of remission under this subsection, the court may deny release, or place or continue such a person on conditional release.

(5) Nothing contained in this chapter shall prohibit the patient from petitioning the court for release or conditional release from the institution in which he or she is committed. The petition shall be served upon the court, the prosecuting attorney, and the secretary. Upon receipt of such petition, the secretary shall develop a recommendation as provided in subsection (1) of this section and provide the secretary's recommendation to all parties and the court. The issue to be determined on such proceeding is whether the ~~((petitioner))~~ patient, as a result of a mental disease or defect, is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(6) Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus.

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 9.** If specific funding for the purposes of sections 3 through 5 of this act, referencing sections 3 through 5 of this act by bill or chapter number and section number, is not provided by June 30, 2013, in the omnibus appropriations act, sections 3 through 5 of this act are null and void."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "criminal incompetency, civil commitment, and commitments based on criminal insanity; amending RCW 10.77.086, 10.77.270, 71.05.280, 71.05.320, 71.05.425, and 10.77.200; and creating new sections."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1114 and advanced the bill as amended by the Senate to final passage.

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

Representatives Pedersen and Rodne 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 Second Substitute House Bill No. 1114, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1114, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 89; Nays, 6; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Crouse, Dahlquist, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pike, 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, Goodman, Overstreet, Scott, Shea and Taylor.

Excused: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1114, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 16, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1144 with the following amendment:

On page 2, beginning on line 20, after "(4)" strike all material through "deaf." on line 24 and insert "By December 31, 2013, the professional educator standards board shall recommend to the education committees of the house of representatives and the senate, how to appropriately use the national interpreter certification and the

educational interpreter performance assessment for educational interpreters in Washington public schools."

and the same is herewith transmitted.

Hunter Goodman, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1144 and advanced the bill as amended by the Senate to final passage.

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

Representatives Dahlquist and Santos 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 House Bill No. 1144, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1144, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 88; Nays, 7; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Crouse, Dahlquist, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, 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, Nealey, Overstreet, Pike, Scott, Shea and Taylor.

Excused: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1144, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2013

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1178 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that the use of a basic skills test as an entrance requirement to teacher certification programs has unintentionally created a barrier to the effective recruitment of candidates from underrepresented populations who are otherwise qualified for the program. Therefore, the legislature intends to expand the pool of potential teacher candidates by expanding the types of testing instruments and assessments that may be used to measure basic skills. The legislature intends to review any alternative

assessments to ensure that candidates must continue to meet the established standards for admission to a teacher certification program.

**Sec. 2.** RCW 28A.410.220 and 2008 c 176 s 2 are each amended to read as follows:

(1)(a) Beginning not later than September 1, 2001, the Washington professional educator standards board shall make available and pilot a means of assessing an applicant's knowledge in the basic skills. For the purposes of this section, "basic skills" means the subjects of at least reading, writing, and mathematics. Beginning September 1, 2002, except as provided in (c) and (d) of this subsection and subsection (4) of this section, passing this assessment shall be required for admission to approved teacher preparation programs and for persons from out-of-state applying for a Washington state residency teaching certificate.

(b) On an individual student basis, approved teacher preparation programs may admit into their programs a candidate who has not achieved the minimum basic skills assessment score established by the Washington professional educator standards board. Individuals so admitted may not receive residency certification without passing the basic skills assessment under this section.

(c) The Washington professional educator standards board may establish criteria to ensure that persons from out-of-state who are applying for residency certification and persons applying to master's degree level teacher preparation programs can demonstrate to the board's satisfaction that they have the requisite basic skills based upon having completed another basic skills assessment acceptable to the Washington professional educator standards board or by some other alternative approved by the Washington professional educator standards board.

(d) The Washington professional educator standards board may identify and accept other tests and test scores as long as the tests are comparable in rigor to the basic skills assessment and candidates meet or exceed the basic skills requirements established by the board. The board must set the acceptable score for admission to teacher certification programs at no lower than the average national scores for the SAT or ACT.

(2) The Washington professional educator standards board shall set performance standards and develop, pilot, and implement a uniform and externally administered professional-level certification assessment based on demonstrated teaching skill. In the development of this assessment, consideration shall be given to changes in professional certification program components such as the culminating seminar.

(3) Beginning not later than September 1, 2002, the Washington professional educator standards board shall provide for the initial piloting and implementation of a means of assessing an applicant's knowledge in the subjects for which the applicant has applied for an endorsement to his or her residency or professional teaching certificate. The assessment of subject knowledge shall not include instructional methodology. Beginning September 1, 2005, passing this assessment shall be required to receive an endorsement for certification purposes.

(4) The Washington professional educator standards board may permit exceptions from the assessment requirements under subsections (1), (2), and (3) of this section on a case-by-case basis.

(5) The Washington professional educator standards board shall provide for reasonable accommodations for individuals who are required to take the assessments in subsection (1), (2), or (3) of this section if the individuals have learning or other disabilities.

(6) With the exception of applicants exempt from the requirements of subsections (1), (2), and (3) of this section, an applicant must achieve a minimum assessment score or scores established by the Washington professional educator standards board on each of the assessments under subsections (1), (2), and (3) of this section.

(7) The Washington professional educator standards board and superintendent of public instruction, as determined by the Washington professional educator standards board, may contract with one or more third parties for:

(a) The development, purchase, administration, scoring, and reporting of scores of the assessments established by the Washington professional educator standards board under subsections (1), (2), and (3) of this section;

(b) Related clerical and administrative activities; or

(c) Any combination of the purposes in this subsection.

(8) Applicants for admission to a Washington teacher preparation program and applicants for residency and professional certificates who are required to successfully complete one or more of the assessments under subsections (1), (2), and (3) of this section, and who are charged a fee for the assessment by a third party contracted with under subsection (7) of this section, shall pay the fee charged by the contractor directly to the contractor. Such fees shall be reasonably related to the actual costs of the contractor in providing the assessment.

(9) The superintendent of public instruction is responsible for supervision and providing support services to administer this section.

(10) The Washington professional educator standards board shall collaboratively select or develop and implement the assessments and minimum assessment scores required under this section with the superintendent of public instruction and shall provide opportunities for representatives of other interested educational organizations to participate in the selection or development and implementation of such assessments in a manner deemed appropriate by the Washington professional educator standards board.

(11) The Washington professional educator standards board shall adopt rules under chapter 34.05 RCW that are reasonably necessary for the effective and efficient implementation of this section."

On page 1, line 2 of the title, after "certification;" strike the remainder of the title and insert "amending RCW 28A.410.220; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1178 and advanced the bill as amended by the Senate to final passage.

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

Representatives Lytton 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 House Bill No. 1178, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1178, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 85; Nays, 10; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Clibborn, Cody, Dahlquist, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton,

MacEwen, Magendanz, Maxwell, 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, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Chandler, Condotta, Crouse, Holly, Overstreet, Pike, Scott, Shea, Taylor and Vick.

Excused: Representatives DeBolt, Manweller and McCoy.

HOUSE BILL NO. 1178, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed Substitute House Bill No. 1183 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 3.** 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 transmission equipment, removal of transmission equipment, or replacement of existing transmission equipment on existing or replacement structures that do 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)))~~ 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. This exemption does not apply to projects within a designated environmentally sensitive area; and

(b) ~~((The project is not in a designated environmentally sensitive area; and~~

~~—(e))~~ 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 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 subsection (1) of this section.

(3) ~~((For the purposes of this section:))~~ The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "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.

(b) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

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

~~((e) "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.))~~

(d) "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;

(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."

On page 1, line 1 of the title, after "structures;" strike the remainder of the title and insert "and amending RCW 43.21C.0384."

and the same is herewith transmitted.

Brad Hendrickson Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to Substitute House Bill No. 1183 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

April 15, 2013

Mr. Speaker:

The Senate has passed Second Substitute House Bill No. 1723 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 4.** A new section is added to chapter 43.215 RCW to read as follows:

The legislature finds that the first five years of a child's life establish the foundation for educational success. The legislature also finds that children who have high quality early learning opportunities from birth through age five are more likely to succeed throughout their K-12 education and beyond. The legislature further finds that the benefits of high quality early learning experiences are particularly significant for low-income parents and children, and provide an opportunity to narrow the opportunity gap in Washington's K-12 educational system. The legislature understands that early supports for high-risk parents of young children through home visiting services show a high return on investment due to significantly improved chances of better education, health, and life outcomes for children. The legislature further recognizes that, when parents work or go to school, high quality and full-day early learning opportunities should be available and accessible for their children. In order to improve education outcomes, particularly for low-income children, the legislature is committed to expanding high quality early learning opportunities and integrating currently disparate funding streams for all birth-to-five early learning services including, working connections child care and the early childhood education and assistance program, into a single high quality continuum of learning that provides essential services to low-income families and prepares all enrolled children for success in school. The legislature therefore

intends to establish the early start program to provide a continuum of high quality and accountable early learning opportunities for Washington's parents and children.

**Sec. 5.** RCW 28A.150.220 and 2011 1st sp.s. c 27 s 1 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through twelve, at least a district-wide annual average of one thousand hours, which shall be increased to at least one thousand eighty instructional hours for students enrolled in each of grades seven through twelve and at least one thousand instructional hours for students in each of grades one through six according to an implementation schedule adopted by the legislature, but not before the 2014-15 school year; and

(b) For students enrolled in kindergarten, at least four hundred fifty instructional hours, which shall be increased to at least one thousand instructional hours according to the implementation schedule under RCW 28A.150.315.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the essential academic learning requirements under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete twenty-four credits for high school graduation, subject to a phased-in implementation of the twenty-four credits as established by the legislature. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and

(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

(4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of one hundred eighty school days per school year according to the implementation schedule under RCW 28A.150.315. However, schools administering the Washington kindergarten inventory of developing skills may use up to three school days at the beginning of the school year to meet with parents and families as

required in the parent involvement component of the inventory. In addition, effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(6) Nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

(7) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

**Sec. 6.** 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)~~) early childhood education 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)~~) early childhood education 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~~) early childhood education 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))~~ A program 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))~~ (j) A program 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))~~ (k) A program 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 their 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.

(14) "Washington state preschool program" means an education program for children three-to-five years of age who have not yet entered kindergarten, such as the early childhood education and assistance program.

NEW SECTION. Sec. 7. (1)(a) The chairs of the early learning committees of the legislature shall convene a technical working group to:

(i) Review federal and state early education funding streams;

(ii) Develop technical options for aligning eligibility requirements for child care and Washington state preschool;

(iii) Develop recommendations for an effective and responsive eligibility system;

(iv) Develop technical options for system designs that blend and braid disparate federal and state funding streams into a single program, including the option of applying for waivers from existing federal requirements; and

(v) Present findings and options in a report to the early learning committees of both houses of the legislature by December 1, 2013.

(b) At a minimum, the technical working group must be composed of financial and policy staff from the department of social and health services and the department of early learning.

(2) The technical working group shall provide monthly progress reports to the staff of the legislative early learning committees and the relevant legislative fiscal committees. The legislative staff shall share the progress reports with the chairs of the legislative committees. The chairs of the committees may provide additional guidance to the working group through legislative staff depending on the information that is shared with the chairs.

(3) This section expires December 31, 2013.

Sec. 8. RCW 43.215.020 and 2010 c 233 s 1, 2010 c 232 s 2, and 2010 c 231 s 6 are each reenacted and amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To apply data already collected comparing state-funded child care and preschool program compensation rates to market rates of similar programs to make biennial recommendations to the legislature regarding compensation models that would attract and retain high quality early learning professionals to state programs;

(f) To serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA);

~~((#))~~ (g) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

~~((#))~~ (h) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

~~((#))~~ (i) To work cooperatively and in coordination with the early learning council;

~~((#))~~ (j) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs;

~~((#))~~ (k) To develop and adopt rules for administration of the program of early learning established in RCW 43.215.141;

~~((#))~~ (l) To develop a comprehensive birth-to-three plan to provide education and support through a continuum of options including, but not limited to, services such as: Home visiting; quality incentives for infant and toddler child care subsidies; quality improvements for family home and center-based child care programs serving infants and toddlers; professional development; early literacy programs; and informal supports for family, friend, and neighbor caregivers; and

~~((#))~~ (m) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information and provider comments through the internet and other means.

(3) When additional funds are appropriated for the specific purpose of home visiting and parent and caregiver support, the department must reserve at least eighty percent for home visiting services to be deposited into the home visiting services account and up to twenty percent of the new funds for other parent or caregiver support.

(4) Home visiting services must include programs that serve families involved in the child welfare system.

(5) The legislature shall fund the expansion in the Washington state preschool program pursuant to RCW 43.215.142 in fiscal year 2014.

(6) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children, and that recognizes and honors cultural and linguistic diversity. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

**Sec. 9.** RCW 43.215.100 and 2007 c 394 s 4 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department, in collaboration with community and statewide partners, shall implement a voluntary quality rating and improvement system, called the early achievers program, that is applicable to licensed or certified child care centers and homes and early education programs.

(2) The purpose of the ~~((voluntary quality rating and improvement system))~~ early achievers program is: (a) To give parents clear and easily accessible information about the quality of child care and early education programs, support improvement in early learning programs throughout the state, increase the readiness of children for school, and close the disparity in access to quality care; and (b) to establish a common set of expectations and standards that define, measure, and improve the quality of early learning settings.

(3) Participation in the early achievers program is voluntary for licensed or certified child care centers and homes.

(4) By fiscal year 2015, Washington state preschool programs receiving state funds must enroll in the early achievers program and

maintain a minimum score level.

(5) Before final implementation of the ~~((voluntary quality rating and improvement system))~~ early achievers program, the department shall report on program progress, as defined within the race to the top federal grant award, and expenditures to the appropriate policy and fiscal committees of the legislature. Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects.

**Sec. 10.** RCW 43.215.430 and 1994 c 166 s 8 are each amended to read as follows:

The department shall review applications from public or private nonsectarian organizations for state funding of early childhood education and assistance programs ~~((and award funds as determined by department rules and based on))~~. The department shall consider local community needs ~~((and))~~, demonstrated capacity ~~((to provide services))~~, and the need to support a mixed delivery system of early learning that includes alternative models for delivery including licensed centers and licensed family child care providers when reviewing applications.

**NEW SECTION. Sec. 11.** If specific funding for the purposes of section 5 of this act, referencing section 5 of this act by bill or chapter and section number, is not provided by June 30, 2013, in the omnibus appropriations act, section 5 of this act is null and void."

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 28A.150.220, 43.215.100, and 43.215.430; reenacting and amending RCW 43.215.010 and 43.215.020; adding a new section to chapter 43.215 RCW; creating new sections; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

Representative Shea moved to concur in the Senate amendment to Second Substitute House Bill No. 1723.

Representatives Shea and Alexander spoke in favor of the motion to concur.

Representative Kagi spoke against the motion to concur.

The Speaker (Representative Moeller presiding) stated the question before the House to be the motion to concur in the Senate amendment to Second Substitute House Bill No. 1723.

The motion was not adopted.

The House refused to concur in the Senate amendment to Second Substitute House Bill No. 1723 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

April 18, 2013

Mr. Speaker:

The Senate insists on its position in the House amendment to ENGROSSED SENATE BILL NO. 5666 and asks the House for a Conference thereon.

And the same is herewith transmitted.

Hunter Goodman Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House granted the Senate's request for a Conference on ENGROSSED SENATE BILL NO. 5666. The Speaker (Representative Moeller presiding) appointed

the following members as Conferees: Representatives Jinkins, Pederson and Rodne.

### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1194 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 77.85.050 and 2009 c 345 s 3 and 2009 c 333 s 25 are each reenacted and amended to read as follows:

(1)(a) Counties, cities, and tribal governments must jointly designate, by resolution or by letters of support, the area for which a habitat project list is to be developed and the lead entity that is to be responsible for submitting the habitat project list. No project included on a habitat project list shall be considered mandatory in nature and no private landowner may be forced or coerced into participation in any respect. The lead entity may be a county, city, conservation district, special district, tribal government, regional recovery organization, or other entity.

(b) The lead entity shall establish a committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests. The purpose of the committee is to provide a citizen-based evaluation of the projects proposed to promote salmon habitat.

(c) The committee shall compile a list of habitat projects, establish priorities for individual projects, define the sequence for project implementation, and submit these activities as the habitat project list. The committee shall also identify potential federal, state, local, and private funding sources.

(2) The area covered by the habitat project list must be based, at a minimum, on a WRIA, combination of WRIsAs, or any other area as agreed to by the counties, cities, and tribes in resolutions or in letters of support meeting the requirements of this subsection. Preference will be given to projects in an area that contain a salmon species that is listed or proposed for listing under the federal endangered species act.

(3) The lead entity shall submit the habitat project list to the salmon recovery funding board in accordance with procedures adopted by the board.

(4) The recreation and conservation office shall administer funding to support the functions of lead entities.

(5) A landowner whose land is used for a habitat project that is included on a habitat project list, and who has received notice from the project sponsor that the conditions of this section have been met, may not be held civilly liable for any property damages resulting from the habitat project regardless of whether or not the project was funded by the salmon recovery funding board. This subsection is subject to the following conditions:

(a) The project was designed by a licensed professional engineer (PE) or a licensed geologist (LG, LEG, or LHG) with experience in riverine restoration;

(b) The project is designed to withstand one hundred year floods;

(c) The project is not located within one-quarter mile of an established downstream boat launch;

(d) The project is designed to allow adequate response time for in-river boaters to safely evade in-stream structures; and

(e) If the project includes large wood placement, each individual root wad and each log larger than ten feet long and one foot in diameter must be visibly tagged with a unique numerical identifier that will withstand typical river conditions for at least three years."

On page 1, line 1 of the title, after "projects;" strike the remainder of the title and insert "and reenacting and amending RCW 77.85.050."

and the same is herewith transmitted.

Hunter Goodman, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1194 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1194, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1194, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 77; Nays, 18; Absent, 0; Excused, 3.

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

Voting nay: Representatives Crouse, Dahlquist, Fagan, Hargrove, Harris, Holy, Kretz, Kristiansen, Overstreet, Pike, Sawyer, Schmick, Scott, Shea, Short, Taylor, Vick and Wilcox.

Excused: Representatives DeBolt, Manweller and McCoy.

HOUSE BILL NO. 1194, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 15, 2013

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1207 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 68.52.100 and 2008 c 96 s 1 are each amended to read as follows:

~~((For the purpose of forming))~~ (1) To form a cemetery district, a petition designating the boundaries of the proposed district by metes and bounds or describing the lands to be included in the proposed district by government townships, ranges, and legal subdivisions, ~~((signed by not less than ten percent of the registered voters who~~



~~reside within the boundaries of the proposed district,))~~ setting forth the object of the formation of ~~((such))~~ the proposed district, and stating that the ~~((establishment thereof))~~ formation of the proposed district will be conducive to the public welfare and convenience, ~~((shall))~~ must be filed with the county auditor of the county ~~((within))~~ in which the proposed district is located, accompanied by an obligation signed by two or more petitioners agreeing to pay the cost of publishing the notice ~~((hereinafter provided for))~~ specified in RCW

68.52.120.  
(2) The petition must be signed by at least ten percent of the registered voters in the proposed district. However, in counties with only one municipality the petition must be signed by at least ten percent of the registered voters in the proposed district, based on the total vote cast in the most recent county general election.

(3) The county auditor ~~((shall))~~ must, within thirty days from the date of filing of ~~((such))~~ the petition, examine the signatures and certify ~~((to))~~ the sufficiency or insufficiency ~~((thereof))~~ of the petition.

(4) Notwithstanding subsection (3) of this section, in counties with only one municipality the county auditor must examine the signatures and certify the sufficiency or insufficiency of the petition within fifteen days from the date of filing of the petition. If the county auditor certifies that the petition is insufficient, the county auditor must afford the person who filed the petition ten days from that certification to add additional signatures to the petition. The petition must be refiled by the end of that period. Within fifteen days from the date of refiling, the county auditor must examine the signatures and certify the sufficiency or insufficiency of the petition.

(5) The name of any person who signed a petition ~~((shall))~~ may not be withdrawn from the petition after it has been filed with the county auditor.

(6) If the petition is found to contain a sufficient number of valid signatures, the county auditor ~~((shall))~~ must transmit it, with a certificate of sufficiency attached, to the county legislative authority, which ~~((shall))~~ must thereupon, by resolution entered upon its minutes, receive the ~~((same))~~ petition and fix a day and hour when it will publicly hear the petition.

(7) For the purposes of this section, "municipality" means a city or town.

**Sec. 2.** RCW 68.52.110 and 1947 c 6 s 3 are each amended to read as follows:

~~The ~~((hearing on such petition shall be at the office of the board of county commissioners and shall be held))~~ county legislative authority must conduct a hearing on the petition not less than twenty nor more than forty days from the date of receipt ~~((thereof))~~ of the petition from the county auditor. The hearing may be completed on the day set ~~((therefor))~~ for hearing the petition or it may be adjourned from time to time as ~~((may be))~~ necessary, but ~~((such adjournment or adjournments shall not extend the time for determining said petition more than sixty days in all from the date of receipt by the board))~~ an adjournment may not extend the time for the county legislative authority's determination pursuant to RCW 68.52.140 more than sixty days from the date of receipt of the petition from the county auditor.~~

**Sec. 3.** RCW 68.52.120 and 2012 c 117 s 319 are each amended to read as follows:

~~(A copy of) The text of the petition with the names of petitioners omitted ~~((together with))~~ and a notice signed by the clerk of the ~~((board of county commissioners))~~ county legislative authority stating the day, hour, and place of the hearing ~~((shall))~~ must be published in three consecutive weekly issues of the official newspaper of the county prior to the date of the hearing. ~~((Said clerk shall))~~ The clerk must also cause a copy of the petition with the names of petitioners omitted, ~~((together))~~ with a copy of the notice attached, to be posted for not less than fifteen days before the date of the hearing in ~~((each of))~~ three public places ~~((within the boundaries of))~~ in the~~

proposed district, to be previously designated by him or her and made a matter of record in the proceedings.

**Sec. 4.** RCW 68.52.130 and 1947 c 6 s 5 are each amended to read as follows:

At the time and place fixed for the hearing on the petition or at any adjournment thereof, the ~~((board of county commissioners shall hear said))~~ county legislative authority must hear the petition and receive such evidence as it may deem material in favor of or opposed to the formation of the proposed cemetery district or to the inclusion ~~((therein))~~ or exclusion ~~((therefrom))~~ of any lands in the proposed district, but no lands not within the boundaries of the proposed district as described in the petition ~~((shall))~~ may be included without a written waiver describing the land, executed by all persons having any interest of record therein, having been filed in the proceedings. No land within the boundaries described in the petition ~~((shall))~~ may be excluded from the proposed district.

**Sec. 5.** RCW 68.52.140 and 1996 c 324 s 3 are each amended to read as follows:

~~((The county legislative authority shall have full authority to hear and determine the petition, and if it finds that the formation of the district will be conducive to the public welfare and convenience, it shall by resolution so declare, otherwise it shall deny the petition. If the county legislative authority finds in favor of the formation of the district, it shall designate the name and number of the district, fix the boundaries thereof, and cause an election to be held therein for the purpose of determining whether or not the district shall be organized under the provisions of this chapter, and for the purpose of electing its first cemetery district commissioners. At the same election three cemetery district commissioners shall be elected, but the election of the commissioners shall be null and void if the district is not created. No primary shall be held for the office of cemetery district commissioner. A special filing period shall be opened as provided in RCW 29.15.170 and 29.15.180. Candidates shall run for specific commissioner positions. The person receiving the greatest number of votes for each commissioner position shall be elected to that commissioner))~~ (1) After conducting the hearing on the petition, if the county legislative authority determines that the formation of the proposed cemetery district will be conducive to the public welfare and convenience, the county legislative authority must by resolution so declare, otherwise the county legislative authority must deny the petition.

(2) If the county legislative authority finds in favor of the formation of the proposed district, the county legislative authority must designate the name and number of the proposed district, fix the boundaries of the proposed district, and cause an election to be held in the proposed district to determine whether the proposed district will be formed under the provisions of this chapter, and to elect the first cemetery district commissioners.

(3) Three cemetery district commissioners must be elected at the election to determine whether the proposed district will be formed, but the election of the commissioners is null and void if the district is not formed. No primary will be held for the office of cemetery district commissioner. A special filing period must be opened as provided in RCW 29A.24.171 and 29A.24.181. Candidates must run for specific commissioner positions. The person receiving the greatest number of votes for each commissioner position is elected to that position. The terms of office of the initial commissioners ~~((shall be))~~ are as provided in RCW 68.52.220.

**Sec. 6.** RCW 68.52.150 and 1947 c 6 s 7 are each amended to read as follows:

Except as otherwise provided in this chapter, the election ~~((shall))~~ must insofar as possible be called, noticed, held, conducted, and canvassed in the same manner and by the same officials as provided by law for special elections in the county. ~~((For the purpose of such election county voting precincts may be combined or divided and redefined, and the territory in the district shall be included in one or~~

~~more election precincts as may be deemed convenient, a polling place being designated for each such precinct. The notice of election shall state generally and briefly the purpose thereof, shall give the boundaries of the proposed district, define the election precinct or precincts, designate the polling place for each, mention the names of the candidates for first cemetery district commissioners, and name the day of the election and the hours during which the polls will be open.)~~  
The notice of election must: State generally and briefly the purpose of the election; describe the boundaries of the proposed cemetery district; list the names of the candidates for first cemetery district commissioners; and specify the election date.

**Sec. 7.** RCW 68.52.170 and 1947 c 6 s 9 are each amended to read as follows:

~~((The returns of such election shall be canvassed at the court house on the Monday next following the day of the election, but the canvass may be adjourned from time to time if necessary to await the receipt of election returns which may be unavoidably delayed. The canvassing officials, upon conclusion of the canvass, shall forthwith certify the results thereof in writing to the board of county commissioners. If upon examination of the certificate of the canvassing officials it is found that two thirds of all the votes cast at said election were in favor of the formation of the cemetery district, the board of county commissioners shall, by resolution entered upon its minutes, declare such territory duly organized as a cemetery district under the name theretofore designated and shall declare the three candidates receiving the highest number of votes for cemetery commissioners, the duly elected first cemetery commissioners of the district. The clerk of the board of county commissioners shall certify a copy of the resolution and cause it to be filed for record in the offices of the county auditor and the county assessor of the county. The certified copy shall be entitled to record without payment of a recording fee. If the certificate of the canvassing officials shows that the proposition to organize the proposed cemetery district failed to receive two thirds of the votes cast at said election, the board of county commissioners shall enter a minute to that effect and all proceedings theretofore had shall become))~~  
(1) The returns of the election must be canvassed following the election, but the canvass may be adjourned from time to time to await the receipt of election returns. Upon conclusion of the canvass, the canvassing officials must certify the results to the county legislative authority.

(2) The cemetery district is formed if two-thirds of all votes cast at the election were in favor of the formation of the proposed district. However, in counties with only one municipality the district is formed if a majority of all votes cast at the election were in favor of the formation of the proposed district.

(3) If the proposition to form the proposed district received the voter approval required under this section, the county legislative authority must by resolution recorded in the county legislative authority's minutes: Declare the district formed under the name and number previously designated; and declare the three candidates receiving the highest number of votes for cemetery district commissioners as the duly elected first commissioners of the district. The clerk of the county legislative authority must certify a copy of the resolution and cause it to be filed for record in the offices of the county auditor and the county assessor of the county. The certified copy may be recorded without payment of a recording fee.

(4) If the proposition to form the proposed district failed to receive the voter approval required under this section, the county legislative authority must record in the county legislative authority's minutes the failed vote, and all proceedings relating to the proposed district are null and void.

(5) For the purposes of this section, "municipality" means a city or town.

**Sec. 8.** RCW 68.52.180 and 1947 c 6 s 10 are each amended to read as follows:

(1) Any person, firm, or corporation having a substantial interest involved, and feeling aggrieved by any finding, determination, or resolution of the ((board of county commissioners)) county legislative authority under the provisions of this chapter, may appeal within five days after ((such)) the finding, determination, or resolution was made to the superior court of the county in the same manner as provided by law for appeals from orders of ((said board)) the county legislative authority.

(2) After the expiration of five days from the date of the resolution declaring the district ((organized)) formed, and upon filing of certified copies ((thereof)) of the resolution in the offices of the county auditor and county assessor, the formation of the cemetery district ((shall be)) is complete and its legal existence ((shall)) may not thereafter be questioned by any person by reason of any defect in the proceedings ((had for the creation thereof)) for the formation of the cemetery district.

**Sec. 9.** RCW 68.52.220 and 2011 c 60 s 47 are each amended to read as follows:

(1) The affairs of the cemetery district ((shall)) must be managed by a board of cemetery district commissioners composed of three members. The board may provide, by resolution passed by the commissioners, for the payment of compensation to each of its commissioners at a rate of up to ninety dollars for each day or portion of a day spent in actual attendance at official meetings of the district commission, or in performance of other official services or duties on behalf of the district. However, the compensation for each commissioner must not exceed eight thousand six hundred forty dollars per year.

(2) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the clerk of the board. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver ((shall)) must specify the month or period of months for which it is made. The board ((shall)) must fix the compensation to be paid the secretary and other employees of the district. Cemetery district commissioners and candidates for cemetery district commissioner are exempt from the requirements of chapter 42.17A RCW.

(3) The initial cemetery district commissioners ((shall)) must assume office immediately upon their election and qualification. Staggering of terms of office ((shall)) must be accomplished as follows: ((4)) (a) The person elected receiving the greatest number of votes ((shall be)) is elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; ((2)) (b) the person who is elected receiving the next greatest number of votes ((shall be)) is elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and ((3)) (c) the other person who is elected ((shall be)) is elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial commissioners ((shall)) must assume office immediately after they are elected and qualified but their terms of office ((shall)) must be calculated from the first day of January after the election.

(4) Thereafter, commissioners ((shall be)) are elected to six-year terms of office. Commissioners ((shall)) must serve until their successors are elected and qualified and assume office as provided in RCW 29A.20.040.

~~((The polling places for a cemetery district election may be located inside or outside the boundaries of the district, as determined by the auditor of the county in which the cemetery district is located, and no such election shall be held irregular or void on that account.))~~

(5) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years,

beginning July 1, 2008, based upon changes in the consumer price index during that time period. "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~~) must be used for the adjustments for inflation in this section. The office of financial management 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.

(6) A person holding office as commissioner for two or more special purpose districts (~~shall~~) may receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions."

On page 1, line 1 of the title, after "requirements;" strike the remainder of the title and insert "and amending RCW 68.52.100, 68.52.110, 68.52.120, 68.52.130, 68.52.140, 68.52.150, 68.52.170, 68.52.180, and 68.52.220."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1207 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Taylor spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1207, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1207, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 60; Nays, 35; Absent, 0; Excused, 3.

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

Voting nay: Representatives Alexander, Angel, Buys, Chandler, Condotta, Crouse, Fagan, Haler, Hargrove, Harris, Hawkins, Hayes, Holy, Klippert, Kretz, Magendanz, Nealey, O'Ban, Orcutt, Overstreet, Parker, Pike, Rodne, Ross, Schmick,

Scott, Shea, Short, Smith, Stonier, Taylor, Vick, Warnick, Wilcox and Zeiger.

Excused: Representatives DeBolt, Manweller and McCoy.

HOUSE BILL NO. 1207, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 9, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1265 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.63.060 and 2011 c 233 s 1 are each amended to read as follows:

(1) A notice of traffic infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.

(2) The form for the notice of traffic infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a traffic infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that a traffic infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction; that the penalty for a traffic infraction may include sanctions against the person's driver's license including suspension, revocation, or denial; that the penalty for a traffic infraction related to standing, stopping, or parking may include nonrenewal of the vehicle (~~license~~) registration;

(c) A statement of the specific traffic infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the traffic infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within fifteen days or the person's driver's license or driving privilege (~~will~~) may be suspended by the department until any penalties imposed pursuant to this chapter have been satisfied; and

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances (~~will~~) may result in the suspension of the person's driver's license or driving privilege, or in the case of a standing, stopping, or parking violation, refusal of the department to renew the vehicle (~~license~~) registration, until any penalties imposed pursuant to this chapter have been satisfied.

(3)(a) A form for a notice of traffic infraction printed after July 22, 2011, must include a statement that the person may be able to enter into a payment plan with the court under RCW 46.63.110.

(b) The forms for a notice of traffic infraction must include the changes in section 1, chapter . . . , Laws of 2013 (this act) by July 1, 2015."

On page 1, line 2 of the title, after "notices;" strike the remainder of the title and insert "and amending RCW 46.63.060."

and the same is herewith transmitted.

Hunter Goodman, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1265 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Freeman and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1265, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1265, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1265, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1284 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.067 and 2009 c 520 s 23 are each amended to read as follows:

(1)(a) Following shelter care and no later than thirty days prior to fact-finding, the department or supervising agency shall convene a case conference as required in the shelter care order to develop and specify in a written service agreement the expectations of both the

department or supervising agency and the parent regarding voluntary services for the parent.

(b) The case conference shall include the parent, counsel for the parent, caseworker, counsel for the state, guardian ad litem, counsel for the child, and any other person agreed upon by the parties. Once the shelter care order is entered, the department or supervising agency is not required to provide additional notice of the case conference to any participants in the case conference.

(c) The written service agreement expectations must correlate with the court's findings at the shelter care hearing. The written service agreement must set forth specific services to be provided to the parent.

(d) The case conference agreement must be agreed to and signed by the parties. The court shall not consider the content of the discussions at the case conference at the time of the fact-finding hearing for the purposes of establishing that the child is a dependent child, and the court shall not consider any documents or written materials presented at the case conference but not incorporated into the case conference agreement, unless the documents or written materials were prepared for purposes other than or as a result of the case conference and are otherwise admissible under the rules of evidence.

(2) At any other stage in a dependency proceeding, the department or supervising agency, upon the parent's request, shall convene a case conference.

(3) If a case conference is convened pursuant to subsection (1) or (2) of this section and the parent is unable to participate in person due to incarceration, the parent must have the option to participate through the use of a teleconference or videoconference.

**Sec. 2.** RCW 13.34.136 and 2011 c 309 s 29 are each amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's or supervising agency's proposed permanency plan must be provided to the department or supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption, including a tribal customary adoption as defined in RCW 13.38.040; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. 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;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(~~((6))~~) (8), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the supervising agency or the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in

accordance with the best interests of each child, and what actions the department or supervising agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's or supervising agency's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement. If the parent is incarcerated, the plan must address how the parent will participate in the case conference and permanency planning meetings and, where possible, must include treatment that reflects the resources available at the facility where the parent is confined. The plan must provide for visitation opportunities, unless visitation is not in the best interests of the child.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The supervising agency or department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the department or supervising agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department or supervising agency.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The supervising agency or department shall provide all reasonable services that are available within the department or supervising agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(~~(6)~~) (8), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department or supervising agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, and the court has not made a good cause exception, the court shall require the department or supervising agency to file a petition seeking termination of parental

rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(~~(4)~~) (6). Whenever the permanency plan for a child is adoption, the court shall encourage the prospective adoptive parents, birth parents, foster parents, kinship caregivers, and the department or other supervising agency to seriously consider the long-term benefits to the child adoptee and his or her siblings of providing for and facilitating continuing postadoption contact between the siblings. To the extent that it is feasible, and when it is in the best interests of the child adoptee and his or her siblings, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or his or her siblings are represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child custody proceeding, the court shall inquire of each attorney and guardian ad litem regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. This section does not require the department of social and health services or other supervising agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care.

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

**Sec. 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) 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)~~ (4) Following this inquiry, at the permanency planning 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.

~~(a)~~ For purposes of this ~~(section)~~ subsection, "good cause exception" includes but is not limited to the following:

~~(i)~~ The child is being cared for by a relative;

~~(ii)~~ The department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; ~~((e))~~

~~(iii)~~ The department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests; or

~~(iv)~~ The parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for fifteen of the last twenty-two months, the parent maintains a meaningful role in the child's life, and the department has not documented another reason why it would be otherwise appropriate to file a petition pursuant to this section.

~~(b)~~ The court's assessment of whether a parent who is incarcerated maintains a meaningful role in the child's life may include consideration of the following:

~~(i)~~ The parent's expressions or acts of manifesting concern for the child, such as letters, telephone calls, visits, and other forms of communication with the child;

~~(ii)~~ The parent's efforts to communicate and work with the department or supervising agency or other individuals for the purpose of complying with the service plan and repairing, maintaining, or building the parent-child relationship;

~~(iii)~~ A positive response by the parent to the reasonable efforts of the department or the supervising agency;

~~(iv)~~ Information provided by individuals or agencies in a reasonable position to assist the court in making this assessment, including but not limited to the parent's attorney, correctional and mental health personnel, or other individuals providing services to the parent;

~~(v)~~ Limitations in the parent's access to family support programs, therapeutic services, and visiting opportunities, restrictions to telephone and mail services, inability to participate in foster care planning meetings, and difficulty accessing lawyers and participating meaningfully in court proceedings; and

~~(vi)~~ Whether the continued involvement of the parent in the child's life is in the child's best interest.

~~(c)~~ The constraints of a parent's current or prior incarceration and associated delays or barriers to accessing court-mandated services may be considered in rebuttal to a claim of aggravated circumstances under RCW 13.34.132(4)(g) for a parent's failure to complete available treatment.

~~((e)(i))~~ ~~(5)~~(a) If the permanency plan identifies independent living as a goal, the court at the permanency planning hearing shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care. The court will inquire whether the child has been provided information about extended foster care services.

~~((ii))~~ (b) The permanency plan shall also specifically identify the services, including extended foster care services, where appropriate, that will be provided to assist the child to make a successful transition from foster care to independent living.

~~((iii))~~ (c) 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))~~ (6) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall:

~~((#))~~ (a) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(6), and 13.34.096; and

~~((#))~~ (b) If the department 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.

~~((#))~~ (7) 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.

~~((#))~~ (8) 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.

~~((#))~~ (9) 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.

~~((#))~~ (10) 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.

~~((#))~~ (11) 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.

~~((#))~~ (12) 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 ~~((#))~~ (11) of this section are met.

~~((#))~~ (13) 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.

~~((#))~~ (14) 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.

~~((#))~~ (15) 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 13.34.180 and 2009 c 520 s 34 and 2009 c 477 s 5 are each reenacted and amended to read as follows:

(1) A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party, including the supervising agency, to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege all of the following unless subsection ~~((#))~~ (3) or (4) of this section applies:

(a) That the child has been found to be a dependent child;

(b) That the court has entered a dispositional order pursuant to RCW 13.34.130;

(c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;

(d) That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;

(e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(i) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts;

(ii) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; or

(iii) Failure of the parent to have contact with the child for an extended period of time after the filing of the dependency petition if the parent was provided an opportunity to have a relationship with the child by the department or the court and received documented notice of the potential consequences of this failure, except that the actual inability of a parent to have visitation with the child including, but not limited to, mitigating circumstances such as a parent's current or prior incarceration or service in the military does not in and of itself constitute failure to have contact with the child; and

(f) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home. If the parent is incarcerated, the court shall consider whether a parent maintains a meaningful role in his or her child's life based on factors identified in RCW 13.34.145(4)(b); whether the department or supervising agency made reasonable efforts as defined in this chapter; and whether particular barriers existed as described in RCW 13.34.145(4)(b) including, but not limited to, delays or barriers experienced in keeping the agency apprised of his or her location and in accessing visitation or other meaningful contact with the child.

(2) As evidence of rebuttal to any presumption established

pursuant to subsection (1)(e) of this section, the court may consider the particular constraints of a parent's current or prior incarceration. Such evidence may include, but is not limited to, delays or barriers a parent may experience in keeping the agency apprised of his or her location and in accessing visitation or other meaningful contact with the child.

(3) In lieu of the allegations in subsection (1) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

~~((3))~~ (4) In lieu of the allegations in subsection (1)(b) through (f) of this section, the petition may allege that the parent has been convicted of:

(a) Murder in the first degree, murder in the second degree, or homicide by abuse as defined in chapter 9A.32 RCW against another child of the parent;

(b) Manslaughter in the first degree or manslaughter in the second degree, as defined in chapter 9A.32 RCW against another child of the parent;

(c) Attempting, conspiring, or soliciting another to commit one or more of the crimes listed in (a) or (b) of this subsection; or

(d) Assault in the first or second degree, as defined in chapter 9A.36 RCW, against the surviving child or another child of the parent.

~~((4))~~ (5) When a parent has been sentenced to a long-term incarceration and has maintained a meaningful role in the child's life considering the factors provided in RCW 13.34.145(4)(b), and it is in the best interest of the child, the department should consider a permanent placement that allows the parent to maintain a relationship with his or her child, such as, but not limited to, a guardianship pursuant to chapter 13.36 RCW.

(6) Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

"NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of social and health services or the supervising agency and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If

you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number)."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "the rights of parents who are incarcerated; amending RCW 13.34.067, 13.34.136, and 13.34.145; and reenacting and amending RCW 13.34.180."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1284 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1284, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1284, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1284, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 11, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1334 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.04.330 and 2009 c 275 s 2 are each amended to read as follows:

"Motorcycle" means a motor vehicle designed to travel on not more than three wheels (~~(in contact with the ground)~~), not including any stabilizing conversion kits, on which the driver:

(1) Rides on a seat or saddle and the motor vehicle is designed to be steered with a handlebar; or

(2) Rides on a seat in a partially or completely enclosed seating area that is equipped with safety belts and the motor vehicle is designed to be steered with a steering wheel.

"Motorcycle" excludes a farm tractor, a power wheelchair, an electric personal assistive mobility device, a motorized foot scooter, an electric-assisted bicycle, and a moped.

Sec. 2. RCW 46.20.500 and 2009 c 275 s 4 are each amended to read as follows:

(1) No person may drive either a two-wheeled or a three-wheeled motorcycle, or a motor-driven cycle unless such person has a valid driver's license specially endorsed by the director to enable the holder to drive such vehicles.

(2) However, a person sixteen years of age or older, holding a valid driver's license of any class issued by the state of the person's residence, may operate a moped without taking any special examination for the operation of a moped.

(3) No driver's license is required for operation of an electric-assisted bicycle if the operator is at least sixteen years of age. Persons under sixteen years of age may not operate an electric-assisted bicycle.

(4) No driver's license is required to operate an electric personal assistive mobility device or a power wheelchair.

(5) No driver's license is required to operate a motorized foot scooter. Motorized foot scooters may not be operated at any time from a half hour after sunset to a half hour before sunrise without reflectors of a type approved by the state patrol.

(6) A person holding a valid driver's license may operate a motorcycle as defined under RCW 46.04.330(2) without a motorcycle endorsement.

(7) A person operating a motorcycle with a stabilizing conversion kit must have a valid driver's license specially endorsed by the director for a three-wheeled motorcycle to enable the holder to operate such a motorcycle.

Sec. 3. RCW 46.81A.010 and 2003 c 353 s 11 and 2003 c 41 s 4 are each reenacted and amended to read as follows:

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

(1) "Motorcycle skills education program" means a motorcycle rider skills training program to be administered by the department.

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

(3) "Director" means the director of licensing.

(4) "Motorcycle" (~~(means a motor vehicle designed to travel on not more than three wheels in contact with the ground, on which the driver rides astride the motor unit or power train and is designed to be steered with a handlebar, but excluding farm tractors, electric personal assistive mobility devices, mopeds, motorized foot scooters, motorized bicycles,))~~ has the same meaning as provided in RCW 46.04.330 and excludes off-road motorcycles."

On page 1, line 1 of the title, after "motorcycles;" strike the remainder of the title and insert "amending RCW 46.04.330 and 46.20.500; and reenacting and amending RCW 46.81A.010."

and the same is herewith transmitted.

Hunter Goodman, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1334 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1334, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1334, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1334, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 15, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1336 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) According to the state department of health, suicide is the second leading cause of death for Washington youth between the ages of ten and twenty-four. Suicide rates among Washington youth remain higher than that national average;

(b) An increasing body of research shows an association between adverse childhood experiences such as trauma, violence, or abuse, and school performance. Children and teens spend a significant amount of time in school. Teachers and other school staff who interact with students daily are in a prime position to recognize the signs of emotional or behavioral distress and make appropriate referrals. School personnel need effective training to help build the skills and confidence to assist youth in seeking help;

(c) Educators are not necessarily trained to address significant social, emotional, or behavioral issues exhibited by youth. Rather, best practices guidelines suggest that school districts should form partnerships with qualified health, mental health, and social services agencies to provide support; and

(d) Current safe school plans prepared by school districts tend to focus more on natural disasters and external threats and less on how to recognize and respond to potential crises among the students inside the school.

(2) Therefore, the legislature intends to increase the capacity for school districts to recognize and respond to youth in need through additional training, more comprehensive planning, and emphasis on partnerships between schools and communities.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.410 RCW to read as follows:

(1) As provided under subsections (2) and (3) of this section, individuals certified by the professional educator standards board as a school nurse, school social worker, school psychologist, or school counselor must complete a training program on youth suicide screening and referral as a condition of certification. The training program must be at least three hours in length. The professional educator standards board must adopt standards for the minimum content of the training in consultation with the office of the superintendent of public instruction and the department of health. In developing the standards, the board must consider training programs listed on the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center.

(2) This section applies to the following certificates if the certificate is first issued or is renewed on or after July 1, 2015:

(a) Continuing certificates for school nurses;

(b) Continuing certificates for school social workers;

(c) Continuing and professional certificates for school psychologists; and

(d) Continuing and professional certificates for school counselors.

(3) A school counselor who holds or submits a school counseling certificate from the national board for professional teaching standards or a school psychologist who holds or submits a school psychologist certificate from the national association of school psychologists in lieu of a professional certificate must complete the training program under subsection (1) of this section by July 1, 2015, or within the five-year period before the certificate is first submitted to the professional educator standards board, whichever is later, and at least once every five years thereafter in order to be considered certified by the professional educator standards board.

(4) The professional educator standards board shall consider the training program under subsection (1) of this section as approved continuing education under RCW 28A.415.020 and shall count the training program toward meeting continuing education requirements

for certification as a school nurse, school social worker, school psychologist, or school counselor.

**Sec. 3.** RCW 28A.410.035 and 1990 c 90 s 1 are each amended to read as follows:

(1) To receive initial certification as a teacher in this state after August 31, 1991, an applicant shall have successfully completed a course on issues of abuse. The content of the course shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention.

(2) The professional educator standards board shall incorporate into the content required for the course under this section, knowledge and skill standards pertaining to recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. To receive initial certification after August 31, 2014, an applicant must have successfully completed a course that includes the content of this subsection. The board shall consult with the office of the superintendent of public instruction and the department of health in developing the standards.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) Beginning in the 2014-15 school year, each school district must adopt a plan for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. The school district must annually provide the plan to all district staff.

(2) At a minimum the plan must address:

(a) Identification of training opportunities in recognition, screening, and referral that may be available for staff;

(b) How to use the expertise of district staff who have been trained in recognition, screening, and referral;

(c) How staff should respond to suspicions, concerns, or warning signs of emotional or behavioral distress in students;

(d) Identification and development of partnerships with community organizations and agencies for referral of students to health, mental health, substance abuse, and social support services, including development of at least one memorandum of understanding between the district and such an entity in the community or region;

(e) Protocols and procedures for communication with parents;

(f) How staff should respond to a crisis situation where a student is in imminent danger to himself or herself or others; and

(g) How the district will provide support to students and staff after an incident of violence or youth suicide.

(3) The plan under this section may be a separate plan or a component of another district plan or policy, such as the harassment, intimidation, and bullying prevention policy under RCW 28A.300.2851 or the comprehensive safe school plan required under RCW 28A.320.125.

**NEW SECTION. Sec. 5.** A new section is added to chapter 28A.320 RCW to read as follows:

The office of the superintendent of public instruction and the school safety advisory committee shall develop a model school district plan for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. The model plan must incorporate research-based best practices, including practices and protocols used in schools and school districts in other states. The model plan must be posted by February 1, 2014, on the school safety center web site, along with relevant resources and information to support school districts in developing and implementing the plan required under section 4 of this act.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28A.310 RCW to read as follows:

Each educational service district shall develop and maintain the capacity to offer training for educators and other school district staff on youth suicide screening and referral, and on recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. An educational service district may demonstrate capacity by employing staff with sufficient expertise to offer the training or by contracting with individuals or organizations to offer the training. Training may be offered on a fee-for-service basis, or at no cost to school districts or educators if funds are appropriated specifically for this purpose or made available through grants or other sources.

**NEW SECTION. Sec. 7.** The office of the superintendent of public instruction shall convene a temporary task force to identify best practices, model programs, and successful strategies for school districts to form partnerships with qualified health, mental health, and social services agencies in the community to coordinate and improve support for youth in need. The task force shall identify and develop resource documents to be posted on the school safety center web site, and submit a report with recommendations to the education committees of the legislature by December 1, 2013. The task force shall also explore the potential use of advance online youth emotional health and crisis response systems that have been developed for use in other countries. The task force must include the results of the review in its December 1st report.

**NEW SECTION. Sec. 8.** (1) The legislature finds that a lack of information about mental health problems among the general public leads to stigmatizing attitudes and prevents people from seeking help early and seeking the best sort of help. It also prevents people from providing support to family members, friends, and colleagues because they might not know what to do. This lack of knowledge about mental health problems limits the initial accessibility of evidence-based treatments and leads to a lack of support for people with a mental disorder from family, friends, and other members of the community.

(2) The focus on training for teachers and educational staff is intended to provide opportunities for early intervention when the first signs of developing mental illness may be recognized in children, teens, and young adults, so that appropriate referrals may be made to evidence-based behavioral health services.

**NEW SECTION. Sec. 9.** A new section is added to chapter 71.24 RCW to read as follows:

Subject to appropriation for this specific purpose, the department shall provide funds for mental health first-aid training targeted at teachers and educational staff. The training will follow the model developed by the department of psychology in Melbourne, Australia. Instruction provided will describe common mental disorders that arise in youth, their possible causes and risk factors, the availability of evidence-based medical, psychological, and alternative treatments, processes for making referrals for behavioral health services, and methods to effectively render assistance in both initial intervention and crisis situations. The department shall collaborate with the office of the superintendent of public instruction to identify sites and methods of instruction that leverage local resources to the extent possible for the purpose of making the mental health first-aid training broadly available.

**NEW SECTION. Sec. 10.** This act does not create any civil liability on the part of the state or any state agency, officer, employee, agent, political subdivision, or school district."

On page 1, line 2 of the title, after "youth;" strike the remainder of the title and insert "amending RCW 28A.410.035; adding a new section to chapter 28A.410 RCW; adding new sections to chapter 28A.320 RCW; adding a new section to chapter 28A.310 RCW;

adding a new section to chapter 71.24 RCW; and creating new sections."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1336 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1336, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1336, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 89; Nays, 6; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Crouse, Dahlquist, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pike, 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, Holy, Overstreet, Scott, Shea and Taylor.

Excused: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1336, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 15, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1341 with the following amendment:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature recognizes that persons convicted and imprisoned for crimes they did not commit have been uniquely victimized. Having suffered tremendous injustice by being stripped of their lives and liberty, they are forced to endure imprisonment and are later stigmatized as felons. A majority of those wrongly convicted in Washington state have no remedy available under the law for the destruction of their personal lives resulting from

errors in our criminal justice system. The legislature intends to provide an avenue for those who have been wrongly convicted in Washington state to redress the lost years of their lives, and help to address the unique challenges faced by the wrongly convicted after exoneration.

**NEW SECTION. Sec. 2.** (1) Any person convicted in superior court and subsequently imprisoned for one or more felonies of which he or she is actually innocent may file a claim for compensation against the state.

(2) For purposes of this chapter, a person is:

(a) "Actually innocent" of a felony if he or she did not engage in any illegal conduct alleged in the charging documents; and

(b) "Wrongly convicted" if he or she was charged, convicted, and imprisoned for one or more felonies of which he or she is actually innocent.

(3)(a) If the person entitled to file a claim under subsection (1) of this section is incapacitated and incapable of filing the claim, or if he or she is a minor, or is a nonresident of the state, the claim may be filed on behalf of the claimant by an authorized agent.

(b) A claim filed under this chapter survives to the personal representative of the claimant as provided in RCW 4.20.046.

**NEW SECTION. Sec. 3.** (1) All claims under this chapter must be filed in superior court. The venue for such actions is governed by RCW 4.12.020.

(2) Service of the summons and complaint is governed by RCW 4.28.080.

**NEW SECTION. Sec. 4.** (1) In order to file an actionable claim for compensation under this chapter, the claimant must establish by documentary evidence that:

(a) The claimant has been convicted of one or more felonies in superior court and subsequently sentenced to a term of imprisonment, and has served all or part of the sentence;

(b)(i) The claimant is not currently incarcerated for any offense; and

(ii) During the period of confinement for which the claimant is seeking compensation, the claimant was not serving a term of imprisonment or a concurrent sentence for any crime other than the felony or felonies that are the basis for the claim;

(c)(i) The claimant has been pardoned on grounds consistent with innocence for the felony or felonies that are the basis for the claim; or

(ii) The claimant's judgment of conviction was reversed or vacated and the charging document dismissed on the basis of significant new exculpatory information or, if a new trial was ordered pursuant to the presentation of significant new exculpatory information, either the claimant was found not guilty at the new trial or the claimant was not retried and the charging document dismissed; and

(d) The claim is not time barred by section 9 of this act.

(2) In addition to the requirements in subsection (1) of this section, the claimant must state facts in sufficient detail for the finder of fact to determine that:

(a) The claimant did not engage in any illegal conduct alleged in the charging documents; and

(b) The claimant did not commit or suborn perjury, or fabricate evidence to cause or bring about the conviction. A guilty plea to a crime the claimant did not commit, or a confession that is later determined by a court to be false, does not automatically constitute perjury or fabricated evidence under this subsection.

(3) Convictions vacated, overturned, or subject to resentencing pursuant to *In re: Personal Detention of Andress*, 147 Wn.2d 602 (2002) may not serve as the basis for a claim under this chapter unless the claimant otherwise satisfies the qualifying criteria set forth in section 2 of this act and this section.

(4) The claimant must verify the claim unless he or she is incapacitated, in which case the personal representative or agent filing on behalf of the claimant must verify the claim.

(5) If the attorney general concedes that the claimant was wrongly convicted, the court must award compensation as provided in section 6 of this act.

(6)(a) If the attorney general does not concede that the claimant was wrongly convicted and the court finds after reading the claim that the claimant does not meet the filing criteria set forth in this section, it may dismiss the claim, either on its own motion or on the motion of the attorney general.

(b) If the court dismisses the claim, the court must set forth the reasons for its decision in written findings of fact and conclusions of law.

**NEW SECTION. Sec. 5.** Any party is entitled to the rights of appeal afforded parties in a civil action following a decision on such motions. In the case of dismissal of a claim, review of the superior court action is de novo.

**NEW SECTION. Sec. 6.** (1) In order to obtain a judgment in his or her favor, the claimant must show by clear and convincing evidence that:

(a) The claimant was convicted of one or more felonies in superior court and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence;

(b)(i) The claimant is not currently incarcerated for any offense; and

(ii) During the period of confinement for which the claimant is seeking compensation, the claimant was not serving a term of imprisonment or a concurrent sentence for any conviction other than those that are the basis for the claim;

(c)(i) The claimant has been pardoned on grounds consistent with innocence for the felony or felonies that are the basis for the claim; or

(ii) The claimant's judgment of conviction was reversed or vacated and the charging document dismissed on the basis of significant new exculpatory information or, if a new trial was ordered pursuant to the presentation of significant new exculpatory information, either the claimant was found not guilty at the new trial or the claimant was not retried and the charging document dismissed;

(d) The claimant did not engage in any illegal conduct alleged in the charging documents; and

(e) The claimant did not commit or suborn perjury, or fabricate evidence to cause or bring about his or her conviction. A guilty plea to a crime the claimant did not commit, or a confession that is later determined by a court to be false, does not automatically constitute perjury or fabricated evidence under this subsection.

(2) Any pardon or proclamation issued to the claimant must be certified by the officer having lawful custody of the pardon or proclamation, and be affixed with the seal of the office of the governor, or with the official certificate of such officer before it may be offered as evidence.

(3) In exercising its discretion regarding the weight and admissibility of evidence, the court must give due consideration to difficulties of proof caused by the passage of time or by release of evidence pursuant to a plea, the death or unavailability of witnesses, the destruction of evidence, or other factors not caused by the parties.

(4) The claimant may not be compensated for any period of time in which he or she was serving a term of imprisonment or a concurrent sentence for any conviction other than the felony or felonies that are the basis for the claim.

(5) If the jury or, in the case where the right to a jury is waived, the court finds by clear and convincing evidence that the claimant was wrongly convicted, the court must order the state to pay the actually innocent claimant the following compensation award, as adjusted for partial years served and to account for inflation from the effective date of this section:

(a) Fifty thousand dollars for each year of actual confinement including time spent awaiting trial and an additional fifty thousand dollars for each year served under a sentence of death pursuant to chapter 10.95 RCW;

(b) Twenty-five thousand dollars for each year served on parole, community custody, or as a registered sex offender pursuant only to the felony or felonies which are grounds for the claim;

(c) Compensation for child support payments owed by the claimant that became due and interest on child support arrearages that accrued while the claimant was in custody on the felony or felonies that are grounds for the compensation claim. The funds must be paid on the claimant's behalf in a lump sum payment to the department of social and health services for disbursement under Title 26 RCW;

(d) Reimbursement for all restitution, assessments, fees, court costs, and all other sums paid by the claimant as required by pretrial orders and the judgment and sentence; and

(e) Attorneys' fees for successfully bringing the wrongful conviction claim calculated at ten percent of the monetary damages awarded under subsection (5)(a) and (b) of this section, plus expenses. However, attorneys' fees and expenses may not exceed seventy-five thousand dollars. These fees may not be deducted from the compensation award due to the claimant and counsel is not entitled to receive additional fees from the client related to the claim. The court may not award any attorneys' fees to the claimant if the claimant fails to prove he or she was wrongly convicted.

(6) The compensation award may not include any punitive damages.

(7) The court may not offset the compensation award by any expenses incurred by the state, the county, or any political subdivision of the state including, but not limited to, expenses incurred to secure the claimant's custody, or to feed, clothe, or provide medical services for the claimant. The court may not offset against the compensation award the value of any services or reduction in fees for services to be provided to the claimant as part of the award under this section.

(8) The compensation award is not income for tax purposes, except attorneys' fees awarded under subsection (5)(e) of this section.

(9)(a) Upon finding that the claimant was wrongly convicted, the court must seal the claimant's record of conviction.

(b) Upon request of the claimant, the court may order the claimant's record of conviction vacated if the record has not already been vacated, expunged, or destroyed under court rules. The requirements for vacating records under RCW 9.94A.640 do not apply.

(10) Upon request of the claimant, the court must refer the claimant to the department of corrections or the department of social and health services for access to reentry services, if available, including but not limited to counseling on the ability to enter into a structured settlement agreement and where to obtain free or low-cost legal and financial advice if the claimant is not already represented, the community-based transition programs and long-term support programs for education, mentoring, life skills training, assessment, job skills development, mental health and substance abuse treatment.

(11) The claimant or the attorney general may initiate and agree to a claim with a structured settlement for the compensation awarded under subsection (5) of this section. During negotiation of the structured settlement agreement, the claimant must be given adequate time to consult with the legal and financial advisor of his or her choice. Any structured settlement agreement binds the parties with regard to all compensation awarded. A structured settlement agreement entered into under this section must be in writing and signed by the parties or their representatives and must clearly state that the parties understand and agree to the terms of the agreement.

(12) Before approving any structured settlement agreement, the court must ensure that the claimant has an adequate understanding of the agreement. The court may approve the agreement only if the judge finds that the agreement is in the best interest of the claimant and actuarially equivalent to the lump sum compensation award under subsection (5) of this section before taxation. When determining whether the agreement is in the best interest of the claimant, the court must consider the following factors:

(a) The age and life expectancy of the claimant;

(b) The marital or domestic partnership status of the claimant; and

(c) The number and age of the claimant's dependants.

**NEW SECTION. Sec. 7.** (1) On or after the effective date of this section, when a court grants judicial relief, such as reversal and vacation of a person's conviction, consistent with the criteria established in section 4 of this act, the court must provide to the claimant a copy of sections 2 through 12 of this act at the time the relief is granted.

(2) The clemency and pardons board or the indeterminate sentence review board, whichever is applicable, upon issuance of a pardon by the governor on grounds consistent with innocence on or after the effective date of this section, must provide a copy of sections 2 through 12 of this act to the individual pardoned.

(3) If an individual entitled to receive the information required under this section shows that he or she was not provided with the information, he or she has an additional twelve months, beyond the statute of limitations under section 9 of this act, to bring a claim under this chapter.

**NEW SECTION. Sec. 8.** (1) It is the intent of the legislature that the remedies and compensation provided under this chapter shall be exclusive to all other remedies at law and in equity against the state or any political subdivision of the state. As a requirement to making a request for relief under this chapter, the claimant waives any and all other remedies, causes of action, and other forms of relief or compensation against the state, any political subdivision of the state, and their officers, employees, agents, and volunteers related to the claimant's wrongful conviction and imprisonment. This waiver shall also include all state, common law, and federal claims for relief, including claims pursuant to 42 U.S.C. Sec. 1983. A wrongfully convicted person who elects not to pursue a claim for compensation pursuant to this chapter shall not be precluded from seeking relief through any other existing remedy. The claimant must execute a legal release prior to the payment of any compensation under this chapter. If the release is held invalid for any reason and the claimant is awarded compensation under this chapter and receives a tort award related to his or her wrongful conviction and incarceration, the claimant must reimburse the state for the lesser of:

(a) The amount of the compensation award, excluding the portion awarded pursuant to section 6(5) (c) through (e) of this act; or

(b) The amount received by the claimant under the tort award.

(2) A release dismissal agreement, plea agreement, or any similar agreement whereby a prosecutor's office or an agent acting on its behalf agrees to take or refrain from certain action if the accused individual agrees to forgo legal action against the county, the state of Washington, or any political subdivision, is admissible and should be evaluated in light of all the evidence. However, any such agreement is not dispositive of the question of whether the claimant was wrongly convicted or entitled to compensation under this chapter.

**NEW SECTION. Sec. 9.** Except as provided in section 7 of this act, an action for compensation under this chapter must be commenced within three years after the grant of a pardon, the grant of judicial relief and satisfaction of other conditions described in section 2 of this act, or release from custody, whichever is later. However, any action by the state challenging or appealing the grant of judicial relief or release from custody tolls the three-year period. Any persons meeting the criteria set forth in section 2 of this act who was wrongly convicted before the effective date of this section may commence an action under this chapter within three years after the effective date of this section.

**NEW SECTION. Sec. 10.** All payments by the state under this chapter shall be paid from the liability account established under RCW 4.92.130.

**NEW SECTION. Sec. 11.** A new section is added to chapter 28B.15 RCW to read as follows:

(1) Subject to the conditions in subsection (2) of this section and the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges, must waive all tuition and fees for the following persons:

(a) A wrongly convicted person; and

(b) Any child or stepchild of a wrongly convicted person who was born or became the stepchild of, or was adopted by, the wrongly convicted person before compensation is awarded under section 6 of this act.

(2) The following conditions apply to waivers under subsection (1) of this section:

(a) A wrongly convicted person must be a Washington domiciliary to be eligible for the tuition waiver.

(b) A child must be a Washington domiciliary ages seventeen through twenty-six years to be eligible for the tuition waiver. A child's marital status does not affect eligibility.

(c) Each recipient's continued participation is subject to the school's satisfactory progress policy.

(d) Tuition waivers for graduate students are not required for those who qualify under subsection (1) of this section but are encouraged.

(e) Recipients who receive a waiver under subsection (1) of this section may attend full time or part time. Total credits earned using the waiver may not exceed two hundred quarter credits, or the equivalent of semester credits.

(3) Private vocational schools and private higher education institutions are encouraged to provide waivers consistent with the terms of this section.

(4) For the purposes of this section:

(a) "Child" means a biological child, stepchild, or adopted child who was born of, became the stepchild of, or was adopted by a wrongly convicted person before compensation is awarded under section 6 of this act.

(b) "Fees" includes all assessments for costs incurred as a condition to a student's full participation in coursework and related activities at an institution of higher education.

(c) "Washington domiciliary" means a person whose true, fixed, and permanent house and place of habitation is the state of Washington. In ascertaining whether a wrongly convicted person or child is domiciled in the state of Washington, public institutions of higher education must, to the fullest extent possible, rely upon the standards provided in RCW 28B.15.013.

(d) "Wrongly convicted person" means a Washington domiciliary who was awarded damages under section 6 of this act.

**NEW SECTION. Sec. 12.** A new section is added to chapter 72.09 RCW to read as follows:

When a court refers a person to the department under section 6 of this act as part of the person's award in a wrongful conviction claim, the department must provide reasonable access to existing reentry programs and services. Nothing in this section requires the department to establish new reentry programs or services.

**Sec. 13.** RCW 4.92.130 and 2011 1st sp.s. c 43 s 513 are each amended to read as follows:

A liability account in the custody of the treasurer is hereby created as a nonappropriated account to be used solely and exclusively for the payment of liability settlements and judgments against the state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of its officers, employees, and volunteers and all related legal defense costs.

(1) The purpose of the liability account is to: (a) Expeditiously pay legal liabilities and defense costs of the state resulting from tortious conduct; (b) promote risk control through a cost allocation system which recognizes agency loss experience, levels of self-retention, and levels of risk exposure, including the payment of compensation awarded by a court under section 6 of this act; and (c)

establish an actuarially sound system to pay incurred losses, within defined limits.

(2) The liability account shall be used to pay claims for injury and property damages and legal defense costs exclusive of agency-retained expenses otherwise budgeted.

(3) No money shall be paid from the liability account, except for defense costs, unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

(a) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or

(b) The claim has been approved for payment.

(4) The liability account shall be financed through annual premiums assessed to state agencies, based on sound actuarial principles, and shall be for liability coverage in excess of agency-budgeted self-retention levels.

(5) Annual premium levels shall be determined by the risk manager. An actuarial study shall be conducted to assist in determining the appropriate level of funding.

(6) Disbursements for claims from the liability account shall be made to the claimant, or to the clerk of the court for judgments, upon written request to the state treasurer from the risk manager.

(7) The director may direct agencies to transfer moneys from other funds and accounts to the liability account if premiums are delinquent.

(8) The liability account shall not exceed fifty percent of the actuarial value of the outstanding liability as determined annually by the office of risk management. If the account exceeds the maximum amount specified in this section, premiums may be adjusted by the office of risk management in order to maintain the account balance at the maximum limits. If, after adjustment of premiums, the account balance remains above the limits specified, the excess amount shall be prorated back to the appropriate funds.

(9) The payment of compensation for wrongful conviction awarded by a court under section 6 of this act does not constitute a finding that the wrongful conviction resulted from tortious conduct by the officers or employees of the state or the political subdivisions, municipal corporations, and quasi-municipal corporations of the state.

**NEW SECTION. Sec. 14.** 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. 15.** Sections 1 through 10 of this act constitute a new chapter in Title 4 RCW."

On page 1, line 2 of the title, after "imprisonment;" strike the remainder of the title and insert "amending RCW 4.92.130; adding a new section to chapter 28B.15 RCW; adding a new section to chapter 72.09 RCW; and adding a new chapter to Title 4 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1341 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1341, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1341, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1341, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Substitute House Bill No. 1341.

Representative Hargrove, 47th District

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Substitute House Bill No. 1341.

Representative Klippert, 8th District

### THIRD READING

### MESSAGE FROM THE SENATE

April 12, 2013

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1416 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 87.03 RCW to read as follows:

Any local improvement district bonds, and interest thereon, issued against a bond redemption fund of a local improvement district pursuant to RCW 87.03.485 shall be a valid claim of the owner thereof only as against the local improvement guarantee fund, the local improvement district redemption fund, and the assessments or revenues pledged to such fund or funds and do not constitute a general indebtedness against the issuing irrigation district unless the board of directors by resolution expressly provides for a pledge of general indebtedness. Except where the board provides for a pledge of general indebtedness, each such bond must state upon its face that

it is payable from the local improvement district redemption fund and the local improvement guarantee fund only.

**Sec. 2.** RCW 84.34.310 and 1999 c 153 s 71 are each amended to read as follows:

As used in RCW 84.34.300 through 84.34.380, unless a different meaning is required, the words defined in this section shall have the meanings indicated.

(1) "Farm and agricultural land" shall mean the same as defined in RCW 84.34.020(2).

(2) "Timber land" shall mean the same as defined in RCW 84.34.020(3).

(3) "Local government" shall mean any city, town, county, water-sewer district, public utility district, port district, ~~((irrigation district,))~~ flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special benefit assessments for sanitary and/or storm sewerage systems, domestic water supply and/or distribution systems, or road construction or improvement purposes. "Local government" does not include an irrigation district with respect to any local improvement district created or local improvement assessment levied by that irrigation district.

(4) "Local improvement district" shall mean any local improvement district, utility local improvement district, local utility district, road improvement district, or any similar unit created by a local government for the purpose of levying special benefit assessments against property specially benefited by improvements relating to such districts.

(5) "Owner" shall mean the same as defined in RCW 84.34.020(5) or the applicable statutes relating to special benefit assessments.

(6) The term "average rate of inflation" shall mean the annual rate of inflation as determined by the department of revenue averaged over the period of time as provided in RCW 84.34.330 (1) and (2). Such determination shall be published not later than January 1 of each year for use in that assessment year.

(7) "Special benefit assessments" shall mean special assessments levied or capable of being levied in any local improvement district or otherwise levied or capable of being levied by a local government to pay for all or part of the costs of a local improvement and which may be levied only for the special benefits to be realized by property by reason of that local improvement.

**Sec. 3.** RCW 87.03.480 and 1959 c 75 s 9 are each amended to read as follows:

Any desired special construction, reconstruction, betterment or improvement or purchase or acquisition of improvements already constructed, for any authorized district service, including but not limited to the safeguarding of open canals or ditches for the protection of the public therefrom, which are for the special benefit of the lands tributary thereto and within an irrigation district may be constructed or acquired and provision made to meet the cost thereof as follows:

The holders of title or evidence of title to one-quarter of the acreage proposed to be assessed, may file with the district board their petition reciting the nature and general plan of the desired improvement and specifying the lands proposed to be specially assessed therefor. ~~((The petition shall be accompanied by a bond in the sum of one hundred dollars with surety to be approved by the board, conditioned that the petitioners will pay the cost of an investigation of the project and of the hearing thereon if it is not established. The board may at any time require a bond in an additional sum.))~~ A local improvement district may include adjoining, vicinal, or neighboring improvements even though the improvements and the properties benefited are not connected or continuous. Such improvements may be owned by the United States, the state of Washington, the irrigation district, or another local government. Upon approval of the board of an adjoining irrigation district, an irrigation district may form local improvement districts or

utility local improvement districts that are composed entirely or in part of territory within that adjoining district. Upon the filing of the petition the board, with the assistance of a competent engineer, shall make an investigation of the feasibility, cost, and need of the proposed local improvement together with the ability of the lands to pay the cost, and if it appears feasible, they ~~((shall))~~ may elect to have plans and an estimate of the cost prepared. If a protest against the establishment of the proposed improvement signed by a majority of the holders of title in the proposed local district is presented at or before the hearing, or if the proposed improvement should be found not feasible, too expensive, or not in the best interest of the district, or the lands to be benefited insufficient security for the costs, they shall dismiss the petition ~~((at the expense of the petitioners)).~~

**Sec. 4.** RCW 87.03.485 and 1983 c 167 s 222 are each amended to read as follows:

In the event that the ~~((said))~~ board ~~((shall))~~ approves ~~((said))~~ the petition, the board shall fix a time and place for the hearing thereof and shall publish a notice once a week for two consecutive weeks preceding the date of such hearing and the last publication shall not be more than seven days before such date and shall mail such a notice on or before the second publication date by first-class mail, postage prepaid, to each owner or reputed owner of real property within the proposed local improvement district, as shown on the rolls of the county treasurer as of a date not more than twenty days immediately prior to the date such notice was mailed. Such notice must be published in a newspaper of general circulation in each county in which any portion of the land proposed to be included in such local improvement district lies. Such notice shall state that the lands within ~~((said))~~ the described boundaries are proposed to be organized as a local improvement district, stating generally the nature of the proposed improvement; that bonds for such local improvement district are proposed to be issued as the bonds of the irrigation district, or that a contract is proposed to be entered into between the district and the United States or the state of Washington, or both, that the lands within ~~((said))~~ the local improvement district are to be assessed for such improvement, that such bonds or contract will be ~~((a primary))~~ the obligation of such local improvement district ~~((and a general obligation of the irrigation district))~~ and stating a time and place of hearing thereon. At the time and place of hearing named in ~~((said))~~ the notice, all persons interested may appear before the board and show cause for or against the formation of the proposed improvement district and the issuance of bonds or the entering into of a contract as aforesaid. The board may designate a hearing officer to conduct the hearing, and the hearing officer shall report recommendations on the establishment of the local improvement district to the board for final action. Upon the hearing the board shall determine as to the establishment of the proposed local improvement district. Any landowner whose lands can be served or will be benefited by the proposed improvement, may make application to the board at the time of hearing to include such land and the board of directors in such cases shall, at its discretion, include such lands within such district. The board of directors may exclude any land specified in ~~((said))~~ the notice from ~~((said))~~ the district provided, that in the judgment of the board, the inclusion thereof will not be practicable.

As an alternative plan and subject to all of the provisions of this chapter, the board of directors may initiate the organization of a local improvement district as herein provided. To so organize a local improvement district the board shall adopt and record in its minutes a resolution specifying the lands proposed to be included in such local improvement district or by describing the exterior boundaries of such proposed district or by both. ~~((Said))~~ The resolution shall state generally the plan, character and extent of the proposed improvements, that the land proposed to be included in such improvement district will be assessed for such improvements; and that local improvement district bonds of the irrigation district will be

issued or a contract entered into as hereinabove in this section provided to meet the cost thereof and that such bonds or contract will be ~~((a primary))~~ the obligation of such local improvement district ~~((and a general obligation of the irrigation district)).~~ ~~((Said))~~ The resolution shall fix a time and place of hearing thereon and shall state that unless a majority of the holders of title or of evidence of title to lands within the proposed local improvement district file their written protest at or before ~~((said))~~ the hearing, consent to the improvement will be implied.

A notice containing a copy of ~~((said))~~ the resolution must be published once a week for two consecutive weeks preceding the date of such hearing and the last publication shall not be more than seven days before such date, and shall be mailed on or before the second publication date by first-class mail, postage prepaid, to each owner or reputed owner of real property within the proposed local improvement district, as shown on the rolls of the county treasurer as of a date not more than twenty days immediately prior to the date such notice was mailed, and the hearing thereon shall not be held in less than twenty days from the adoption of such resolution. Such notice must be published in one newspaper, of general circulation, in each county in which any portion of the land proposed to be included in such local improvement district lies. ~~((Said))~~ The hearing shall be held and all subsequent proceedings conducted in accordance with the provisions of this act relating to the organization of local improvement districts initiated upon petition.

**Sec. 5.** RCW 87.03.490 and 2003 c 53 s 412 are each amended to read as follows:

(1) If decision shall be rendered in favor of the improvement, the board shall enter an order establishing the boundaries of the improvement district and shall adopt plans for the proposed improvement and determine the number of annual installments not exceeding fifty in which the cost of the improvement shall be paid. The cost of the improvement shall be provided for by the issuance of local improvement district bonds of the district from time to time, therefor, either directly for the payment of the labor and material or for the securing of funds for such purpose, or by the irrigation district entering into a contract with the United States or the state of Washington, or both, to repay the cost of the improvement. The bonds shall bear interest at a rate or rates determined by the board, payable semiannually, and shall state upon their face that they are issued as bonds of the irrigation district; that all lands within the local improvement district shall be ~~((primarily))~~ liable to assessment for the principal and interest of the local improvement district bonds ~~((and that the bonds are also a general obligation of the district)).~~ The bonds may be in such denominations as the board of directors may in its discretion determine, except that bonds other than bond number one of any issue shall be in a denomination that is a multiple of one ~~((hundred))~~ thousand dollars ~~((, and no bond shall be sold for less than par. Any contract entered into for the local improvement by the district with the United States or the state of Washington, or both although all the lands within the local improvement district shall be primarily liable to assessment for the principal and interest thereon, shall be a general obligation of the irrigation district)).~~ Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) No election shall be necessary to authorize the issuance of such local improvement bonds or the entering into of such a contract. ~~((Such bonds, when issued, shall be signed by the president and secretary of the irrigation district with the seal of the district affixed. The printed, engraved, or lithographed facsimile signatures of the president and secretary of the district's board of directors shall be sufficient signatures on the bonds or any coupons: PROVIDED, That such facsimile signatures on the bonds may be used only after the filing, by the officer whose facsimile signature is to be used, with the secretary of state of his or her manual signature certified by him or her under oath, whereupon that officer's facsimile signature has the~~



same legal effect as his or her manual signature: ~~PROVIDED, FURTHER, That either the president of the board of directors' or the secretary's signature on the bonds shall be manually subscribed: AND PROVIDED FURTHER, That whenever such facsimile reproduction of the signature of any officer is used in place of the manual signature of such officer, the district's board of directors shall specify in a written order or requisition to the printer, engraver, or lithographer the number of bonds or any coupons upon which such facsimile signature is to be printed, engraved, or lithographed and the manner of numbering the bonds or any coupons upon which such signature shall be placed. Within ninety days after the completion of the printing, engraving, or lithographing of such bonds or any coupons, the plate or plates used for the purpose of affixing the facsimile signature shall be destroyed, and it shall be the duty of the district's board of directors, within ninety days after receipt of the completed bonds or any coupons, to ascertain that such plate or plates have been destroyed. Every printer, engraver, or lithographer who, with the intent to defraud, prints, engraves, or lithographs a facsimile signature upon any bond or coupon without written order of the district's board of directors, or fails to destroy such plate or plates containing the facsimile signature upon direction of such issuing authority, is guilty of a class B felony punishable according to chapter 9A.20 RCW.)~~

(3) The proceeds from the sale of such bonds shall be deposited with the treasurer of the district, who shall place them in a special fund designated "Construction fund of local improvement district number . . . . ."

(4) Whenever such improvement district has been organized, the ~~(boundaries thereof may be enlarged))~~ board may enlarge the boundaries of the improvement district to include other lands which can be served or will be benefited by the proposed improvement upon petition of the owners thereof and the consent of the United States or the state of Washington, or both, in the event the irrigation district has contracted with the United States or the state of Washington, or both, to repay the cost of the improvement: PROVIDED, That at such time the lands so included shall pay their equitable proportion upon the basis of benefits of the improvement theretofore made by the local improvement district and shall be liable for the indebtedness of the local improvement district in the same proportion and same manner and subject to assessment as if the lands had been incorporated in the improvement district at the beginning of its organization.

(5) Notwithstanding this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

**Sec. 6.** RCW 87.03.495 and 1988 c 127 s 45 are each amended to read as follows:

(1)(a) The cost of the improvement and of the operation and maintenance thereof, if any, shall be especially assessed against the lands within such local improvement district in proportion to the benefits accruing thereto, and shall be levied and collected in the manner provided by law for the levy and collection of land assessments or toll assessments or both such form of assessments.

(b) The costs of the improvement must include, but not be limited to:

(i) The cost of all of the construction or improvement authorized for the district;

(ii) The estimated cost and expense of all engineering and surveying necessary for the improvement done under the supervision of the irrigation district engineer;

(iii) The estimated cost and expense of ascertaining the ownership of the lots or parcels of land included in the assessment district;

(iv) The estimated cost and expense of advertising, mailing, and publishing all necessary notices;

(v) The estimated cost and expense of accounting and clerical labor, and of books and blanks extended or used on the part of the irrigation district treasurer in connection with the improvement;

(vi) All cost of the acquisition of rights-of-way, property, easements, or other facilities or rights, including without limitation

rights to use property, facilities, or other improvements appurtenant, related to, or useful in connection with the local improvement, whether by eminent domain, purchase, gift, payment of connection charges, capacity charges, or other similar charges or in any other manner; and

(vii) The cost for legal, financial, and appraisal services and any other expenses incurred by the irrigation district for the district or in the formation thereof, or by irrigation district in connection with such construction or improvement and in the financing thereof, including the issuance of any bonds and the cost of providing for increases in the local improvement guaranty fund, or providing for a separate reserve fund or other security for the payment of principal of and interest on such bonds.

(c) Any of the costs set forth in this section may be excluded from the cost and expense to be assessed against the property in the local improvement district and may be paid from any other moneys available therefor if the board of directors so designates by resolution at any time.

(d) The board may give credit for all or any portion of any property or other donation against an assessment, charge, or other required financial contribution for improvements within a local improvement district.

(2) All provisions for the assessment, equalization, levy, and collection of assessments for irrigation district purposes shall be applicable to assessments for local improvements except that no election shall be required to authorize ~~(said)~~ the improvement or the expenditures therefor or the bonds issued to meet the cost thereof or the contract authorized in RCW 87.03.485 to repay the cost thereof. In addition or as an alternative, an irrigation district may elect to apply all or a portion of the provisions for the assessment, equalization, levy, and collection of assessments applicable to city or town local improvement districts; however any duties of the city or town treasurer shall be the duties of the treasurer of the county in which the office of the district is located or other treasurer of the district if appointed pursuant to RCW 87.03.440. In connection with a hearing on the assessment roll, the board may designate a hearing officer to conduct the hearing, and the hearing officer must report recommendations on the assessment roll to the board for final action. Assessments when collected by the county treasurer for the payment for the improvement of any local improvement district shall constitute a special fund to be called "bond redemption or contract repayment fund of local improvement district No. . . . ."

(3) Bonds issued under this chapter shall be eligible for disposal to and purchase by the director of ecology under the provisions of the state reclamation act.

(4) The cost or any unpaid portion thereof, of any such improvement, charged or to be charged or assessed against any tract of land may be paid in one payment under and pursuant to such rules as the board of directors may adopt, and all such amounts shall be paid over to the county treasurer who shall place the same in the appropriate fund. No such payment shall thereby release such tract from liability to assessment for deficiencies or delinquencies of the levies in such improvement district until all of the bonds or the contract, both principal and interest, issued or entered into for such local improvement district have been paid in full. The receipt given for any such payment shall have the foregoing provision printed thereon. The amount so paid shall be included on the annual assessment roll for the current year, provided, such roll has not then been delivered to the treasurer, with an appropriate notation by the secretary that the amount has been paid. If the roll for that year has been delivered to the treasurer then the payment so made shall be added to the next annual assessment roll with appropriate notation that the amount has been paid.

**Sec. 7.** RCW 87.03.510 and 1983 c 167 s 224 are each amended to read as follows:

There is hereby established for each irrigation district in this state having local improvement districts therein a fund for the purpose of guaranteeing to the extent of such fund and in the manner herein provided, the payment of its local improvement bonds and warrants issued or contract entered into to pay for the improvements provided for in this act. Such fund shall be designated "local improvement guarantee fund" and for the purpose of maintaining the same, every irrigation district shall hereafter levy from time to time, as other assessments authorized by RCW 87.03.240 are levied, such sums as may be necessary to meet the financial requirements thereof: **PROVIDED**, That such sums so assessed pursuant to RCW 87.03.240 in any year shall not be more than sufficient to pay the outstanding warrants or contract indebtedness on ~~(said)~~ the fund and to establish therein a balance which shall not exceed ~~(five)~~ ten percent of the outstanding obligations thereby guaranteed. The balance may also be established from the deposit of prepaid local improvement assessments or proceeds of local improvement district bonds. Whenever any bond redemption payment, interest payment, or contract payment of any local improvement district shall become due and there is insufficient funds in the local improvement district fund for the payment thereof, there shall be paid from ~~(said)~~ the local improvement district guarantee fund, by warrant or by such other means as is called for in the contract, a sufficient amount, which together with the balance in the local improvement district fund shall be sufficient to redeem and pay ~~(said)~~ the bond or coupon or contract payment in full. ~~(Said)~~ The warrants against ~~(said)~~ the guarantee fund shall draw interest at a rate determined by the board and ~~(said)~~ the bonds and interest payments shall be paid in their order of presentation or serial order. Whenever there shall be paid out of the guarantee fund any sum on account of principal or interest of a local improvement bond or warrant or contract the irrigation district, as trustee for the fund, shall be subrogated to all of the rights of the owner of the bond or contract amount so paid, and the proceeds thereof, or of the assessment underlying the same shall become part of the guarantee fund. There shall also be paid into such guarantee fund any interest received from bank deposits of the fund, as well as any surplus remaining in any local improvement district fund, after the payment of all of its outstanding bonds or warrants or contract indebtedness which are payable primarily out of such local improvement district fund.

**Sec. 8.** RCW 87.03.515 and 1983 c 167 s 225 are each amended to read as follows:

It shall be lawful for any irrigation district which has issued local improvement district bonds for ~~(said)~~ the improvements, as in this chapter provided, to issue in place thereof an amount of ~~(general)~~ local improvement district or revenue refunding bonds of the irrigation district ~~(not in excess of such issue of local improvement district bonds, and to sell the same, or any part thereof, or exchange the same, or any part thereof, with the owners of such previously issued local improvement district bonds for the purpose of redeeming said bonds)~~ in accordance with chapter 39.53 RCW: PROVIDED, HOWEVER, ((That all the provisions of this chapter regarding the authorization and issuing of bonds shall apply, and: PROVIDING, FURTHER,)) That the issuance of ~~(said)~~ the bonds shall not release the lands of the local improvement district or districts from liability for special assessments for the payment thereof: **AND PROVIDED FURTHER**, That the lien of any issue of bonds of the district prior in point of time to the issue of bonds or local improvement district bonds herein provided for(;) shall be deemed a prior lien.

**Sec. 9.** RCW 87.03.527 and 1959 c 104 s 7 are each amended to read as follows:

Whenever ~~((a local improvement district is sought to be established within an irrigation))~~ the board establishes a local improvement district, in addition or as an alternative to the procedures provided in RCW 87.03.480 through 87.03.525, there may be employed any method authorized by law for the formation of

~~((districts or))~~ improvement districts ~~((so that when formed it will qualify under the provisions of chapter 89.16 RCW))~~ and the levying, collection, and enforcement by foreclosure of assessments therein, including without limitation the formation method employed by cities or towns.

**Sec. 10.** RCW 87.06.020 and 1988 c 134 s 2 are each amended to read as follows:

(1) After thirty-six calendar months from the month of the date of delinquency, or twenty-four months from the month of the date of delinquency with respect to any local improvement district assessment, the treasurer shall prepare certificates of delinquency on the property for the unpaid irrigation district assessments, and for costs and interest. An individual certificate of delinquency may be prepared for each property or the individual certificates may be compiled and issued in one general certificate including all delinquent properties. Each certificate shall contain the following information:

- (a) Description of the property assessed;
- (b) Street address of property, if available;
- (c) Years for which assessed;
- (d) Amount of delinquent assessments, costs, and interest;
- (e) Name appearing on the treasurer's most current assessment roll for the property; and

(f) A statement that interest will be charged on the amount listed in (d) of this subsection at a rate of twelve percent per year, computed monthly and without compounding, from the date of the issuance of the certificate and that additional costs, incurred as a result of the delinquency, will be imposed, including the costs of a title search(;);

(2) The treasurer may provide for the posting of the certificates or other measures designed to advertise the certificates and encourage the payment of the amounts due.

**Sec. 11.** RCW 87.28.103 and 1979 ex.s. c 185 s 14 are each amended to read as follows:

When the directors of the district have decided to issue revenue bonds as herein provided, they shall call a special election in the irrigation district at which election shall be submitted to the electors thereof possessing the qualifications prescribed by law the question whether revenue bonds of the district in the amount and payable according to the plan of payment adopted by the board and for the purposes therein stated shall be issued. ~~((Said))~~ The election shall be called, noticed, conducted, and canvassed in the same manner as provided by law for irrigation district elections to authorize an original issue of bonds payable from revenues derived from annual assessments upon the real property in the district: **PROVIDED**, That the board of directors shall have full authority to issue revenue bonds as herein provided payable within a maximum period of forty years without a special election(~~:- AND PROVIDED, FURTHER, That any irrigation district indebted to the state of Washington shall get the written consent of the director of the department of ecology prior to the issuance of said revenue bonds~~)).

**Sec. 12.** RCW 87.28.200 and 1979 ex.s. c 185 s 19 are each amended to read as follows:

Any irrigation district shall have the power to establish utility local improvement districts within its territory and to levy special assessments within such utility local improvement districts in the same manner as provided for irrigation district local improvement districts: **PROVIDED**, That it must be specified in any petition for the establishment of a utility local improvement district that the sole purpose of the assessments levied against the real property located within the utility local improvement district shall be the payment of the proceeds of those assessments into ~~(the)~~ a revenue bond fund for the payment of revenue bonds, that no warrants or bonds shall be issued in any such utility local improvement district, and that the collection of interest and principal on all assessments in such utility local improvement district, when collected, shall be paid into ~~(the))~~ that revenue bond fund, except that special assessments paid before the issuance and sale of bonds may be deposited in a fund for the

payment of costs of improvements in the utility local improvement district.

**Sec. 13.** RCW 89.12.050 and 2009 c 145 s 3 are each amended to read as follows:

(1) A district may enter into repayment and other contracts with the United States under the terms of the federal reclamation laws in matters relating to federal reclamation projects, and may with respect to lands within its boundaries include in the contract, among others, an agreement that:

(a) The district will not deliver water by means of the project works provided by the United States to or for excess lands not eligible therefor under applicable federal law.

(b) As a condition to receiving water by means of the project works, each excess landowner in the district, unless his excess lands are otherwise eligible to receive water under applicable federal law, shall be required to execute a recordable contract covering all of his excess lands within the district.

(c) All excess lands within the district not eligible to receive water by means of the project works shall be subject to assessment in the same manner and to the same extent as lands eligible to receive water, subject to such provisions as the secretary may prescribe for postponement in payment of all or part of the assessment but not beyond a date five years from the time water would have become available for such lands had they been eligible therefor.

(d) The secretary is authorized to amend any existing contract, deed, or other document to conform to the provisions of applicable federal law as it now exists. Any such amendment may be filed for record under RCW 89.12.080.

(2) A district may enter into a contract with the United States for the transfer of operations and maintenance of the works of a federal reclamation project, but the contract does not impute to the district negligence for design or construction defects or deficiencies of the transferred works. Any contract, covenant, promise, agreement, or understanding purporting to indemnify against liability for damages caused by or resulting from the negligent acts or omissions of the United States, its employees, or agents is not enforceable unless expressly authorized by state law.

**NEW SECTION. Sec. 14.** 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."

On page 1, line 2 of the title, after "improvements;" strike the remainder of the title and insert "amending RCW 84.34.310, 87.03.480, 87.03.485, 87.03.490, 87.03.495, 87.03.510, 87.03.515, 87.03.527, 87.06.020, 87.28.103, 87.28.200, and 89.12.050; and adding a new section to chapter 87.03 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1416 and advanced the bill as amended by the Senate to final passage.

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

Representatives Warnick and Takko spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1416, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1416, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

SECOND SUBSTITUTE HOUSE BILL NO. 1416, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 16, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1445 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends to:

(1) Protect access for complex needs patients to important technology and supporting services;

(2) Establish and improve safeguards relating to the delivery and provision of medically necessary complex rehabilitation technology; and

(3) Provide supports for complex needs patients to stay in the home or community setting, prevent institutionalization, and prevent hospitalizations and other costly secondary complications.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority shall establish a separate recognition for individually configured, complex rehabilitation technology products and services for complex needs patients with the medical assistance program. This separate recognition shall:

(a) Establish a budget and services category separate from other categories, such as durable medical equipment and supplies;

(b) Take into consideration the customized nature of complex rehabilitation technology and the broad range of services necessary to meet the unique medical and functional needs of people with complex medical needs; and

(c) Establish standards for the purchase of complex rehabilitation technology exclusively from qualified complex rehabilitation technology suppliers.

(2) The authority shall require complex needs patients receiving complex rehabilitation technology to be evaluated by:

(a) A licensed health care provider who performs specialty evaluations within his or her scope of practice, including a physical therapist licensed under chapter 18.74 RCW and an occupational therapist licensed under chapter 18.59 RCW, and has no financial

relationship with the qualified complex rehabilitation technology supplier; and

(b) A qualified complex rehabilitation technology professional, as identified in subsection (3)(d)(iii) of this section.

(3) As used in this section:

(a) "Complex needs patient" means an individual with a diagnosis or medical condition that results in significant physical or functional needs and capacities. "Complex needs patient" does not negate the requirement that an individual meet medical necessity requirements under authority rules to qualify for receiving a complex rehabilitation product.

(b) "Complex rehabilitation technology" means wheelchairs and seating systems classified as durable medical equipment within the medicare program as of January 1, 2013, that:

(i) Are individually configured for individuals to meet their specific and unique medical, physical, and functional needs and capacities for basic activities of daily living and instrumental activities of daily living identified as medically necessary to prevent hospitalization or institutionalization of a complex needs patient;

(ii) Are primarily used to serve a medical purpose and generally not useful to a person in the absence of an illness or injury; and

(iii) Require certain services to allow for appropriate design, configuration, and use of such item, including patient evaluation and equipment fitting and configuration.

(c) "Individually configured" means a device has a combination of features, adjustments, or modifications specific to a complex needs patient that a qualified complex rehabilitation technology supplier provides by measuring, fitting, programming, adjusting, or adapting the device as appropriate so that the device is consistent with an assessment or evaluation of the complex needs patient by a health care professional and consistent with the complex needs patient's medical condition, physical and functional needs and capacities, body size, period of need, and intended use.

(d) "Qualified complex rehabilitation technology supplier" means a company or entity that:

(i) Is accredited by a recognized accrediting organization as a supplier of complex rehabilitation technology;

(ii) Meets the supplier and quality standards established for durable medical equipment suppliers under the medicare program;

(iii) For each site that it operates, employs at least one complex rehabilitation technology professional, who has been certified by the rehabilitation engineering and assistive technology society of North America as an assistive technology professional, to analyze the needs and capacities of complex needs patients, assist in selecting appropriate covered complex rehabilitation technology items for such needs and capacities, and provide training in the use of the selected covered complex rehabilitation technology items;

(iv) Has the complex rehabilitation technology professional physically present for the evaluation and determination of the appropriate individually configured complex rehabilitation technologies for the complex needs patient;

(v) Provides service and repairs by qualified technicians for all complex rehabilitation technology products it sells; and

(vi) Provides written information to the complex needs patient at the time of delivery about how the individual may receive service and repair.

**NEW SECTION. Sec. 3.** This act takes effect January 1, 2014."

On page 1, line 1 of the title, after "products;" strike the remainder of the title and insert "adding a new section to chapter 74.09 RCW; creating a new section; and providing an effective date."

and the same is herewith transmitted.

Hunter Goodman, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1445 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1445, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1445, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 92; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, 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 Overstreet, Shea and Taylor.

Excused: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1445, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 16, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1472 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) Through such initiatives as grants for high-demand career and technical education programs and participation in the Microsoft IT academy, the state has previously supported K-12 computer science education;

(b) However, even though there were nearly sixty-five thousand student enrollments in high school computer science courses in the 2011-12 school year, more than half of those enrollments were in beginning or exploratory courses. Fewer than twelve hundred students enrolled in AP computer science courses;

(c) National studies of K-12 computer science education indicate that, in part because computer science is not treated as an academic subject, students may not perceive advanced computer science as relevant to their future academic or career success;

(d) Public institutions of higher education have expanded capacity to grant certificates and degrees in computer science and related fields in response to high employer demand and high student demand. Additional expansion and improvement will be dependent on new resources, updated equipment, and the availability of expert faculty;

(e) Information technology job vacancies exist at all levels of training and education and across all industries that are critical to Washington's economy; and

(f) Strategies are needed to support additional opportunities for Washington students to have careers in the innovative, technology-based or technology-enhanced industries located in our state.

(2) Therefore the legislature intends to take additional steps to improve and expand access to computer science education, particularly in advanced courses that could prepare students for careers in the field.

**Sec. 2.** RCW 28A.230.097 and 2008 c 170 s 202 are each amended to read as follows:

(1) Each high school or school district board of directors shall adopt course equivalencies for career and technical high school courses offered to students in high schools and skill centers. A career and technical course equivalency may be for whole or partial credit. Each school district board of directors shall develop a course equivalency approval procedure. Boards of directors must approve AP computer science courses as equivalent to high school mathematics or science, and must denote on a student's transcript that AP computer science qualifies as a math-based quantitative course for students who take the course in their senior year. In order for a board to approve AP computer science as equivalent to high school mathematics, the student must be concurrently enrolled in or have successfully completed algebra II.

(2) Career and technical courses determined to be equivalent to academic core courses, in full or in part, by the high school or school district shall be accepted as meeting core requirements, including graduation requirements, if the courses are recorded on the student's transcript using the equivalent academic high school department designation and title. Full or partial credit shall be recorded as appropriate. The high school or school district shall also issue and keep record of course completion certificates that demonstrate that the career and technical courses were successfully completed as needed for industry certification, college credit, or preapprenticeship, as applicable. The certificate shall be either part of the student's high school and beyond plan or the student's culminating project, as determined by the student. The office of the superintendent of public instruction shall develop and make available electronic samples of certificates of course completion."

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.230.097; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1472 and advanced the bill as amended by the Senate to final passage.

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

Representatives Hansen and Magendanz spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1472, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1472, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1472, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Substitute House Bill No. 1472.

Representative Scott, 39th District

#### THIRD READING

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1474 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.36.170 and 2005 c 2 s 6 are each reenacted and amended to read as follows:

((+)) For any office for which a primary was held, only the names of the top two candidates will appear on the general election ballot; the name of the candidate who received the greatest number of votes will appear first and the candidate who received the next greatest number of votes will appear second. No candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary, if a primary was conducted. On the ballot at the general election for an office for which no primary was held, the names of the candidates shall be listed in the order determined ~~((under))~~ pursuant to RCW ~~((29A.36.130))~~ 29A.36.131.

~~((2)) For the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that office or position, only the name of that candidate may be printed for that position on the ballot at the general election.~~

**NEW SECTION. Sec. 2.** RCW 29A.36.171 (Nonpartisan candidates qualified for general election) and 2004 c 271 s 170 are each repealed."

On page 1, line 2 of the title, after "offices;" strike the remainder of the title and insert "reenacting and amending RCW 29A.36.170; and repealing RCW 29A.36.171."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1474 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1474, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1474, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

HOUSE BILL NO. 1474, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1493 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 84.56 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, if the landlord of a manufactured/mobile home park takes ownership of a manufactured/mobile home or park model trailer with the intent to resell or rent the same after (a) the manufactured/mobile home or park

model trailer has been abandoned; or (b) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the manufactured/mobile home or park model trailer and title has been lawfully transferred to the landlord, the outstanding taxes become the responsibility of the landlord. After the outstanding taxes, interest, and penalties are removed from the tax rolls under subsection (2) of this section, all future taxes are the responsibility of the owner of the manufactured/mobile home or park model trailer.

(2) Upon notification by the assessor, the county treasurer must remove from the tax rolls any outstanding taxes, as well as interest and penalties, on a manufactured/mobile home or park model trailer if the landlord of a manufactured/mobile home park:

(a) Submits a signed affidavit to the assessor indicating that the landlord has taken ownership of the manufactured/mobile home or park model trailer with the intent to resell or rent after: (i) The manufactured/mobile home or park model trailer has been abandoned; or (ii) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the manufactured/mobile home or park model trailer and title has been lawfully transferred to the landlord; and

(b) The most current assessed value of the manufactured/mobile home or park model trailer is less than eight thousand dollars.

(3) For the purposes of this section, "abandoned," "manufactured/mobile home," and "park model" have the same meanings as provided in RCW 59.20.030.

**Sec. 2.** RCW 46.44.170 and 2010 c 161 s 1118 are each amended to read as follows:

(1) Any person moving a mobile home as defined in RCW 46.04.302 or a park model trailer as defined in RCW 46.04.622 upon public highways of the state must obtain:

(a) A special permit from the department of transportation and local authorities pursuant to RCW 46.44.090 and 46.44.093 and ~~((shall))~~ **must** pay the proper fee as prescribed by RCW 46.44.0941 and 46.44.096; and

(b) For mobile homes constructed before June 15, 1976, and already situated in the state: (i) A certification from the department of labor and industries that the mobile home was inspected for fire safety; or (ii) an affidavit in the form prescribed by the department of commerce signed by the owner at the county treasurer's office at the time of the application for the movement permit stating that the mobile home is being moved by the owner for his or her continued occupation or use; or (iii) a copy of the certificate of title together with an affidavit signed under penalty of perjury by the certified owner stating that the mobile home is being transferred to a wrecking yard or similar facility for disposal. In addition, the destroyed mobile home must be removed from the assessment rolls of the county and any outstanding taxes on the destroyed mobile home must be removed by the county treasurer.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home or a park model trailer that is assessed for purposes of property taxes ~~((shall))~~ **is not** ~~((be))~~ valid until the county treasurer of the county in which the mobile home or park model trailer is located ~~((shall))~~ **must** endorse or attach his or her certificate that all property taxes which are a lien or which are delinquent, or both, upon the mobile home or park model trailer being moved have been satisfied. Further, any mobile home or park model trailer required to have a special movement permit under this section ~~((shall))~~ **must** display an easily recognizable decal. However, endorsement or certification by the county treasurer and the display of the decal is not required:

(a) When a mobile home or park model trailer is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets;

(b) When a signed affidavit of destruction is filed with the county assessor and the mobile home or park model trailer is being moved to a disposal site by a landlord as defined in RCW 59.20.030 after (i) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (ii) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer and title has been lawfully transferred to the landlord. The mobile home or park model trailer will be removed from the tax rolls and, upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer will be removed by the county treasurer; or

(c) When a signed affidavit of destruction is filed with the county assessor by any mobile home or park model trailer owner or any property owner with an abandoned mobile home or park model trailer, the same (~~shall~~) must be removed from the tax rolls and upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer (~~shall~~) must be removed by the county treasurer.

(3) Except as provided in section 1(1) of this act, if the landlord of a manufactured/mobile home park takes ownership of a manufactured/mobile home or park model trailer with the intent to resell or rent the same under RCW 59.20.030 after (a) the manufactured/mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (b) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the manufactured/mobile home or park model trailer and title has been lawfully transferred to the landlord, the outstanding taxes become the responsibility of the landlord.

(4) It is the responsibility of the owner of the mobile home or park model trailer subject to property taxes or the agent to obtain the endorsement and decal from the county treasurer before a mobile home or park model trailer is moved.

(5) This section does not prohibit the issuance of vehicle license plates for a mobile home or park model trailer subject to property taxes, but plates (~~shall~~) may not be issued unless the mobile home or park model trailer subject to property taxes for which plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for the license has been paid.

(6) The department of transportation, the department of labor and industries, and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. The department of transportation (~~shall~~) must adopt rules specifying the design, reflective characteristics, annual coloration, and for the uniform implementation of the decal required by this section. The department of labor and industries (~~shall~~) must adopt procedures for notifying destination local jurisdictions concerning the arrival of mobile homes that failed safety inspections."

On page 1, line 2 of the title, after "trailers;" strike the remainder of the title and insert "amending RCW 46.44.170; and adding a new section to chapter 84.56 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1493 and advanced the bill as amended by the Senate to final passage.

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

Representatives Springer and Warnick spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1493, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1493, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

ENGROSSED HOUSE BILL NO. 1493, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1519 with the following amendment:

Strike everything after the enacting clause and insert the following:

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

(1) "Authority" means the health care authority.

(2) "Department" means the department of social and health services.

(3) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well-established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in this section.

(4) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(5) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the

weight of the evidence from a systemic review supports sustained outcomes as described in this subsection but does not meet the full criteria for evidence-based.

(6) "Service coordination organization" or "service contracting entity" means the authority and department, or an entity that may contract with the state to provide, directly or through subcontracts, a comprehensive delivery system of medical, behavioral, long-term care, or social support services, including entities such as regional support networks as defined in RCW 71.24.025, managed care organizations that provide medical services to clients under chapter 74.09 RCW, counties providing chemical dependency services under chapters 74.50 and 70.96A RCW, and area agencies on aging providing case management services under chapter 74.39A RCW.

**NEW SECTION. Sec. 2.** (1) The authority and the department shall base contract performance measures developed under section 3 of this act on the following outcomes when contracting with service contracting entities: Improvements in client health status and wellness; increases in client participation in meaningful activities; reductions in client involvement with criminal justice systems; reductions in avoidable costs in hospitals, emergency rooms, crisis services, and jails and prisons; increases in stable housing in the community; improvements in client satisfaction with quality of life; and reductions in population-level health disparities.

(2) The performance measures must demonstrate the manner in which the following principles are achieved within each of the outcomes under subsection (1) of this section:

(a) Maximization of the use of evidence-based practices will be given priority over the use of research-based and promising practices, and research-based practices will be given priority over the use of promising practices. The agencies will develop strategies to identify programs that are effective with ethnically diverse clients and to consult with tribal governments, experts within ethnically diverse communities and community organizations that serve diverse communities;

(b) The maximization of the client's independence, recovery, and employment;

(c) The maximization of the client's participation in treatment decisions; and

(d) The collaboration between consumer-based support programs in providing services to the client.

(3) In developing performance measures under section 3 of this act, the authority and the department shall consider expected outcomes relevant to the general populations that each agency serves. The authority and the department may adapt the outcomes to account for the unique needs and characteristics of discrete subcategories of populations receiving services, including ethnically diverse communities.

(4) The authority and the department shall coordinate the establishment of the expected outcomes and the performance measures between each agency as well as each program to identify expected outcomes and performance measures that are common to the clients enrolled in multiple programs and to eliminate conflicting standards among the agencies and programs.

(5) The authority and the department shall establish timelines and mechanisms for service contracting entities to report data related to performance measures and outcomes, including phased implementation of public reporting of outcome and performance measures in a form that allows for comparison of performance measures and levels of improvement between geographic regions of Washington.

**NEW SECTION. Sec. 3.** By September 1, 2014:

(1) The authority shall adopt performance measures to determine whether service contracting entities are achieving the outcomes described in section 2 of this act for clients enrolled in medical managed care programs operated according to Title XIX or XXI of the federal social security act.

(2) The department shall adopt performance measures to determine whether service contracting entities are achieving the outcomes described in section 2 of this act for clients receiving mental health, long-term care, or chemical dependency services.

**NEW SECTION. Sec. 4.** By July 1, 2015, the authority and the department shall require that contracts with service coordination organizations include provisions requiring the adoption of the outcomes and performance measures developed under this chapter and mechanisms for reporting data to support each of the outcomes and performance measures.

**NEW SECTION. Sec. 5.** (1) By December 1, 2014, the department and the authority shall report jointly to the legislature on the expected outcomes and the performance measures. The report must identify the performance measures and the expected outcomes established for each program, the relationship between the performance measures and expected improvements in client outcomes, mechanisms for reporting outcomes and measuring performance, and options for applying the performance measures and expected outcomes development process to other health and social service programs.

(2) By December 1, 2016, the department and the authority shall report to the legislature on the incorporation of the performance measures into contracts with service coordination organizations and progress toward achieving the identified outcomes.

**NEW SECTION. Sec. 6.** The outcomes and performance measures established pursuant to this chapter do not establish a standard of care in any civil action brought by a recipient of services. The failure of a service coordination organization to meet the outcomes and performance measures established pursuant to this chapter does not create civil liability on the part of the service coordination organization in a claim brought by a recipient of services.

**NEW SECTION. Sec. 7.** A new section is added to chapter 74.09 RCW to read as follows:

The authority shall incorporate the expected outcomes and criteria to measure the performance of service coordination organizations as provided in chapter 70.-- RCW (the new chapter created in section 11 of this act) into contracts with managed care organizations that provide services to clients under this chapter.

**Sec. 8.** RCW 70.96A.320 and 1990 c 151 s 9 are each amended to read as follows:

(1) A county legislative authority, or two or more counties acting jointly, may establish an alcoholism and other drug addiction program. If two or more counties jointly establish the program, they shall designate one county to provide administrative and financial services.

(2) To be eligible for funds from the department for the support of the county alcoholism and other drug addiction program, the county legislative authority shall establish a county alcoholism and other drug addiction board under RCW 70.96A.300 and appoint a county alcoholism and other drug addiction program coordinator under RCW 70.96A.310.

(3) The county legislative authority may apply to the department for financial support for the county program of alcoholism and other drug addiction. To receive financial support, the county legislative authority shall submit a plan that meets the following conditions:

(a) It shall describe the services and activities to be provided;

(b) It shall include anticipated expenditures and revenues;

(c) It shall be prepared by the county alcoholism and other drug addiction program board and be adopted by the county legislative authority;

(d) It shall reflect maximum effective use of existing services and programs; and

(e) It shall meet other conditions that the secretary may require.



(4) The county may accept and spend gifts, grants, and fees, from public and private sources, to implement its program of alcoholism and other drug addiction.

(5) The department shall require that any agreement to provide financial support to a county that performs the activities of a service coordination organization for alcoholism and other drug addiction services must incorporate the expected outcomes and criteria to measure the performance of service coordination organizations as provided in chapter 70.-- RCW (the new chapter created in section 11 of this act).

(6) The county may subcontract for detoxification, residential treatment, or outpatient treatment with treatment programs that are approved treatment programs. The county may subcontract for other services with individuals or organizations approved by the department.

~~((6))~~ (7) To continue to be eligible for financial support from the department for the county alcoholism and other drug addiction program, an increase in state financial support shall not be used to supplant local funds from a source that was used to support the county alcoholism and other drug addiction program before the effective date of the increase.

**Sec. 9.** RCW 71.24.330 and 2008 c 261 s 6 are each amended to read as follows:

(1)(a) Contracts between a regional support network and the department shall include mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial penalties, termination of the contract, and reprourement of the contract.

(b) The department shall incorporate the criteria to measure the performance of service coordination organizations into contracts with regional support networks as provided in chapter 70.-- RCW (the new chapter created in section 11 of this act).

(2) The regional support network procurement processes shall encourage the preservation of infrastructure previously purchased by the community mental health service delivery system, the maintenance of linkages between other services and delivery systems, and maximization of the use of available funds for services versus profits. However, a regional support network selected through the procurement process is not required to contract for services with any county-owned or operated facility. The regional support network procurement process shall provide that public funds appropriated by the legislature shall not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(3) In addition to the requirements of RCW 71.24.035, contracts shall:

(a) Define administrative costs and ensure that the regional support network does not exceed an administrative cost of ten percent of available funds;

(b) Require effective collaboration with law enforcement, criminal justice agencies, and the chemical dependency treatment system;

(c) Require substantial implementation of department adopted integrated screening and assessment process and matrix of best practices;

(d) Maintain the decision-making independence of designated mental health professionals;

(e) Except at the discretion of the secretary or as specified in the biennial budget, require regional support networks to pay the state for the costs associated with individuals who are being served on the grounds of the state hospitals and who are not receiving long-term inpatient care as defined in RCW 71.24.025;

(f) Include a negotiated alternative dispute resolution clause; and

(g) Include a provision requiring either party to provide one hundred eighty days' notice of any issue that may cause either party to

voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to act as a regional support network. If either party decides to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to serve as a regional support network they shall provide ninety days' advance notice in writing to the other party.

**Sec. 10.** RCW 74.39A.090 and 2004 c 141 s 3 are each amended to read as follows:

(1) The legislature intends that any staff reassigned by the department as a result of shifting of the reauthorization responsibilities by contract outlined in this section shall be dedicated for discharge planning and assisting with discharge planning and information on existing discharge planning cases. Discharge planning, as directed in this section, is intended for residents and patients identified for discharge to long-term care pursuant to RCW 70.41.320, 74.39A.040, and 74.42.058. The purpose of discharge planning is to protect residents and patients from the financial incentives inherent in keeping residents or patients in a more expensive higher level of care and shall focus on care options that are in the best interest of the patient or resident.

(2) The department shall contract with area agencies on aging:

(a) To provide case management services to consumers receiving home and community services in their own home; and

(b) To reassess and reauthorize home and community services in home or in other settings for consumers consistent with the intent of this section:

(i) Who have been initially authorized by the department to receive home and community services; and

(ii) Who, at the time of reassessment and reauthorization, are receiving home and community services in their own home.

(3) In the event that an area agency on aging is unwilling to enter into or satisfactorily fulfill a contract or an individual consumer's need for case management services will be met through an alternative delivery system, the department is authorized to:

(a) Obtain the services through competitive bid; and

(b) Provide the services directly until a qualified contractor can be found.

(4)(a) The department shall include, in its oversight and monitoring of area agency on aging performance, assessment of case management roles undertaken by area agencies on aging in this section. The scope of oversight and monitoring includes, but is not limited to, assessing the degree and quality of the case management performed by area agency on aging staff for elderly and ~~((disabled))~~ persons with disabilities in the community.

(b) The department shall incorporate the expected outcomes and criteria to measure the performance of service coordination organizations into contracts with area agencies on aging as provided in chapter 70.-- RCW (the new chapter created in section 11 of this act).

(5) Area agencies on aging shall assess the quality of the in-home care services provided to consumers who are receiving services under the medicaid personal care, community options programs entry system or chore services program through an individual provider or home care agency. Quality indicators may include, but are not limited to, home care consumers satisfaction surveys, how quickly home care consumers are linked with home care workers, and whether the plan of care under RCW 74.39A.095 has been honored by the agency or the individual provider.

(6) The department shall develop model language for the plan of care established in RCW 74.39A.095. The plan of care shall be in clear language, and written at a reading level that will ensure the ability of consumers to understand the rights and responsibilities expressed in the plan of care.

**NEW SECTION. Sec. 11.** Sections 1 through 6 of this act constitute a new chapter in Title 70 RCW."

On page 1, line 2 of the title, after "organizations;" strike the remainder of the title and insert "amending RCW 70.96A.320, 71.24.330, and 74.39A.090; adding a new section to chapter 74.09 RCW; and adding a new chapter to Title 70 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1519 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1519, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1519, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 90; Nays, 5; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Crouse, Dahlquist, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pike, 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, Scott, Shea and Taylor.

Excused: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1519, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 16, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1525 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 26.33.345 and 1993 c 81 s 3 are each amended to read as follows:

(1) The department of social and health services, adoption agencies, and independent adoption facilitators shall release the name and location of the court where a relinquishment of parental rights or

finalization of an adoption took place to an adult adoptee, a birth parent of an adult adoptee, an adoptive parent, a birth or adoptive grandparent of an adult adoptee, or an adult sibling of an adult adoptee, or the legal guardian of any of these.

(2) The department of health shall make available a noncertified copy of the original birth certificate of a child to the child's birth parents upon request.

(3)(a) For adoptions finalized after October 1, 1993, the department of health shall ~~((make available))~~ provide a noncertified copy of the original birth certificate to ~~((the adoptee after the adoptee's eighteenth birthday unless the birth parent has filed an affidavit of nondisclosure))~~ an adoptee eighteen years of age or older upon request, unless the birth parent has filed an affidavit of nondisclosure before the effective date of this section or a contact preference form that indicates he or she does not want the original birth certificate released: PROVIDED, That the affidavit of nondisclosure, the contact preference form, or both have not expired.

(b) For adoptions finalized on or before October 1, 1993, the department of health may not provide a noncertified copy of the original birth certificate to the adoptee until after June 30, 2014. After June 30, 2014, the department of health shall provide a noncertified copy of the original birth certificate to an adoptee eighteen years of age or older upon request, unless the birth parent has filed a contact preference form that indicates he or she does not want the original birth certificate released: PROVIDED, That the contact preference form has not expired.

(c) An affidavit of nondisclosure expires upon the death of the birth parent.

(4)(a) Regardless of whether a birth parent has filed an affidavit of nondisclosure or when the adoption was finalized, a birth parent may at any time complete a contact preference form stating his or her preference about personal contact with the adoptee, which, if available, must accompany an original birth certificate provided to an adoptee under subsection (3) of this section.

(b) The contact preference form must include the following options:

(i) I would like to be contacted. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate;

(ii) I would like to be contacted only through a confidential intermediary as described in RCW 26.33.343. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate;

(iii) I prefer not to be contacted and have completed the birth parent updated medical history form. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate; and

(iv) I prefer not to be contacted and have completed the birth parent updated medical history form. I do not want a noncertified copy of the original birth certificate released to the adoptee.

(c) If the birth parent indicates he or she prefers not to be contacted, personally identifying information on the contact preference form must be kept confidential and may not be released.

(d) Nothing in this section precludes a birth parent from subsequently filing another contact preference form to rescind the previous contact preference form and state a different preference.

(e) A contact preference form expires upon the death of the birth parent.

(5) If a birth parent files a contact preference form, the birth parent must also file an updated medical history form with the department of health. Upon request of the adoptee, the department of health must provide the adoptee with the updated medical history form filed by the adoptee's birth parent.

(6) Both a completed contact preference form and birth parent updated medical history form are confidential and must be placed in the adoptee's sealed file.

(7) If a birth parent files a contact preference form within six months after the first time an adoptee requests a copy of his or her original birth certificate as provided in subsection (3) of this section, the department of health must forward the contact preference form and the birth parent updated medical history form to the address of the adoptee.

(8) The department of health may charge a fee not to exceed twenty dollars for providing a noncertified copy of a birth certificate to \_\_\_\_\_ an \_\_\_\_\_ adoptee.

(9) The department of health must create the contact preference form and an updated medical history form. The contact preference form must provide a method to ensure personally identifying information can be kept confidential. The updated medical history form may not require the birth parent to disclose any identifying information about the birth parent.

(10) If the department of health does not provide an adoptee with a noncertified copy of the original birth certificate because a valid affidavit of nondisclosure or contact preference form has been filed, the adoptee may request, no more than once per year, that the department of health attempt to determine if the birth parent is deceased. Upon request of the adoptee, the department of health must make a reasonable effort to search public records that are accessible and already available to the department of health to determine if the birth parent is deceased. The department of health may charge the adoptee a reasonable fee to cover the cost of conducting a search."

On page 1, line 2 of the title, after "information;" strike the remainder of the title and insert "and amending RCW 26.33.345."

and the same is herewith transmitted.

Hunter Goodman, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1525 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1525, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1525, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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, Vick, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representative Van De Wege.

Excused: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1525, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1556 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that more than three hundred sixty thousand people in the United States experience cardiac arrest outside of a hospital every year, and only ten percent survive because the remainder do not receive timely cardiopulmonary resuscitation. When administered immediately, cardiopulmonary resuscitation doubles or triples survival rates from cardiac arrest. Sudden cardiac arrest can happen to anyone at any time. Many victims appear healthy and have no known heart disease or other risk factors. The legislature finds that schools are the hearts of our community, and preparing students to help with a sudden cardiac arrest emergency could save the life of a child, parent, or teacher. Washington state has a longstanding history of training members of the public in cardiopulmonary resuscitation with community-based training programs. The legislature finds that training students will continue the legacy of providing high quality emergency cardiac care to its citizens. Therefore, the legislature intends to create a generation of lifesavers by putting cardiopulmonary resuscitation skills in the hands of all high school graduates and providing schools with a flexible framework to prepare for an emergency.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.300 RCW to read as follows:

(1) An automated external defibrillator is often a critical component in the chain of survival for a cardiac arrest victim.

(2) The office of the superintendent of public instruction, in consultation with school districts and stakeholder groups, shall develop guidance for a medical emergency response and automated external defibrillator program for high schools.

(3) The medical emergency response and automated external defibrillator program must comply with current evidence-based guidance from the American heart association or other national science organization.

(4) The office of the superintendent of public instruction, in consultation with the department of health, shall assist districts in carrying out a program under this section, including providing guidelines and advice for seeking grants for the purchase of automated external defibrillators or seeking donations of automated external defibrillators. The superintendent may coordinate with local health districts or other organizations in seeking grants and donations for this purpose.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.230 RCW to read as follows:

(1) Each school district that operates a high school must offer instruction in cardiopulmonary resuscitation to students as provided in this section. Beginning with the 2013-14 school year, instruction in cardiopulmonary resuscitation must be included in at least one health class necessary for graduation.

(2) Instruction in cardiopulmonary resuscitation under this section must:

(a) Be an instructional program developed by the American heart association or the American red cross or be nationally recognized and based on the most current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation;

(b) Include appropriate use of an automated external defibrillator, which may be taught by video; and

(c) Incorporate hands-on practice in addition to cognitive learning.

(3) School districts may offer the instruction in cardiopulmonary resuscitation directly or arrange for the instruction to be provided by available community-based providers. The instruction is not required to be provided by a certificated teacher. Certificated teachers providing the instruction are not required to be certified trainers of cardiopulmonary resuscitation. A student is not required to earn certification in cardiopulmonary resuscitation to successfully complete the instruction for the purposes of this section."

On page 1, line 2 of the title, after "arrest;" strike the remainder of the title and insert "adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.230 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1556 and advanced the bill as amended by the Senate to final passage.

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

Representatives Van De Wege and Dahlquist spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1556, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1556, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 83; Nays, 12; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Dahlquist, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Harris, Hawkins, Hayes, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, Magendanz, Maxwell, 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, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Condotta, Crouse, Hargrove, Holy, MacEwen, Overstreet, Pike, Scott, Shea, Short, Taylor and Vick.

Excused: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1556, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### STATEMENT FOR THE JOURNAL

I intended to vote YEA on Substitute House Bill No. 1556.

Representative Hargrove, 47th District

#### THIRD READING

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1566 with the following amendment:

On page 10, beginning on line 1, strike all of section 7, and insert the following:

"**NEW SECTION. Sec. 7.** A new section is added to chapter 74.13 RCW to read as follows:

(1) A university-based child welfare research entity shall include in its reporting the educational experiences and progress of students in children's administration out-of-home care. This data must be disaggregated in the smallest units allowable by law that do not identify an individual student, in order to learn which children's administration offices and school districts are experiencing the greatest success and challenges in achieving quality educational outcomes with students in children's administration out-of-home care.

(2) By January 1, 2015 and annually thereafter, the university-based child welfare research entity must submit a report to the legislature. To the extent possible, the report should include, but is not limited to, information on the following measures for a youth who is a dependent pursuant to chapter 13.34 RCW:

(a) Aggregate scores from the Washington state kindergarten readiness assessment;

(b) Aggregate scores from the third grade statewide student assessment in reading;

(c) Number of youth graduating from high school with a documented plan for postsecondary education, employment, or military service;

(d) Number of youth completing one year of postsecondary education, the equivalent of first-year student credits, or achieving a postsecondary certificate; and

(e) Number of youth who complete an associate or bachelor's degree.

(3) The report must identify strengths and weaknesses in practice and recommend to the legislature strategy and needed resources for improvement."

On page 1, line 2 of the title, after "13.34.069," strike "28A.300.525," and on line 4 of the title, after "13.34 RCW; adding" strike "a new section" and insert "new sections"

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1566 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1566, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1566, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 83; Nays, 12; Absent, 0; Excused, 3.

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

Voting nay: Representatives Buys, Condotta, Crouse, Hargrove, Klippert, MacEwen, Orcutt, Overstreet, Scott, Shea, Taylor and Vick.

Excused: Representatives DeBolt, Manweller and McCoy.

SECOND SUBSTITUTE HOUSE BILL NO. 1566, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 12, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1633 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.335.190 and 2008 c 215 s 6 are each amended to read as follows:

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the ~~((sum of fifty thousand dollars))~~ threshold levels specified in subsections (2) and (4) of this section, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids and that specifications and other information may be examined at the office of the board or any other officially designated location ~~((PROVIDED, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of forty thousand dollars))~~. The cost of any public work, improvement, or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the

place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment, or supplies, except books, the cost of which is estimated to be in excess of forty thousand dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from forty thousand dollars up to seventy-five thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of seventy-five thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Any school district may purchase goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections pursuant to RCW 72.09.100, including but not limited to furniture, equipment, or supplies. School districts are encouraged to set as a target to contract, beginning after June 30, 2006, to purchase up to one percent of the total goods required by the school districts each year, goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(4) ~~((Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of forty thousand dollars, shall be on a competitive bid process.))~~ The board may make improvements or repairs to the property of the district through a department within the district without following the public bidding process provided in subsection (1) of this section when the total of such improvements or repairs does not exceed the sum of seventy-five thousand dollars. Whenever the estimated cost of a building, improvement, repair, or other public works project is one hundred thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed unless the contract is let using the small works roster process in RCW 39.04.155 or under any other procedure authorized for school districts. One or more school districts may authorize an educational service district to establish and operate a small works roster for the school district under the provisions of RCW 39.04.155.

(5) The contract for the work or purchase shall be awarded to the lowest responsible bidder as ~~((defined))~~ described in RCW ~~((43.19.191))~~ 39.26.160(2) but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's agent, requesting it in person.

(6) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency," for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

(7) This section does not apply to the direct purchase of school buses by school districts and educational services in accordance with RCW 28A.160.195.

(8) This section does not apply to the purchase of Washington grown food.

(9) At the discretion of the board, a school district may develop and implement policies and procedures to facilitate and maximize to the extent practicable, purchases of Washington grown food including, but not limited to, policies that permit a percentage price preference for the purpose of procuring Washington grown food.

(10) As used in this section, "Washington grown" has the definition in RCW 15.64.060.

(11) As used in this section, "price percentage preference" means the percent by which a responsive bid from a responsible bidder whose product is a Washington grown food may exceed the lowest responsive bid submitted by a responsible bidder whose product is not a Washington grown food."

On page 1, line 2 of the title, after "projects;" strike the remainder of the title and insert "and amending RCW 28A.335.190."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1633 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1633, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1633, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 83; Nays, 12; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Carlyle, Chandler, Clibborn, Cody, Condotta, Dahlquist, 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, Kochmar, Kretz, Liias, Lytton, MacEwen, Magendanz, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Seaquist, Sells, Short, Smith, Springer, Stanford, Stonier, Sullivan, Takko, Tarleton, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Buys, Crouse, Klippert, Kristiansen, Orcutt, Overstreet, Pike, Schmick, Scott, Shea, Taylor and Vick.

Excused: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1633, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 16, 2013

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1642 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that progress is being made in making dual high school and college credit courses available for students:

(a) Overall dual credit program enrollments increased by almost four percent between 2009 and 2012;

(b) The number of dual credit programs offered by Washington high schools increased by almost fifteen percent between the 2009-10 school year and the 2011-12 school year; and

(c) Dual credit program participation rates for low-income students increased more than fourteen percent between the 2009-10 school year and the 2011-12 school year.

(2) However, the legislature further finds that more can be done to promote academic acceleration for all students and eliminate barriers, real or perceived, that may prevent students from enrolling in rigorous advanced courses, including dual credit courses.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.320 RCW to read as follows:

(1) Each school district board of directors is encouraged to adopt an academic acceleration policy for high school students as provided under this section.

(2) Under an academic acceleration policy:

(a) The district automatically enrolls any student who meets the state standard on the high school statewide student assessment in the next most rigorous level of advanced courses offered by the high school. Students who successfully complete such an advanced course are then enrolled in the next most rigorous level of advanced course, with the objective that students will eventually be automatically enrolled in courses that offer the opportunity to earn dual credit for high school and college.

(b) The subject matter of the advanced courses in which the student is automatically enrolled depends on the content area or areas of the statewide student assessment where the student has met the state standard. Students who meet the state standard on both end-of-course mathematics assessments are considered to have met the state standard for high school mathematics. Students who meet the state standard in both reading and writing are eligible for enrollment in advanced courses in English, social studies, humanities, and other related subjects.

(c) The district must notify students and parents or guardians regarding the academic acceleration policy and the advanced courses available to students.

(d) The district must provide a parent or guardian with an opportunity to opt out of the academic acceleration policy and enroll a student in an alternative course.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.320 RCW to read as follows:

(1) Subject to funds appropriated specifically for this purpose, the academic acceleration incentive program is established as provided in this section. The intent of the legislature is that the funds awarded under the program be used to support teacher training, curriculum, technology, examination fees, and other costs associated with offering dual credit courses to high school students.

(2) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section on a competitive basis to provide one-time grants for high schools to expand the availability of dual credit courses. To be eligible for a grant, a school district must have adopted an academic acceleration policy as provided under section 2 of this act. In making grant awards, the office of the superintendent of public instruction must give priority to grants for high schools with a high proportion of low-income students and high schools seeking to develop new capacity for dual credit courses rather than proposing marginal expansion of current capacity.

(3) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section to school districts as an incentive award for each student who earned

dual high school and college credit, as described under subsection (4) of this section, for courses offered by the district's high schools during the previous school year. School districts must distribute the award to the high schools that generated the funds. The award amount for low-income students eligible to participate in the federal free and reduced-price meals program who earn dual credits must be set at one hundred twenty-five percent of the base award for other students. A student who earns more than one dual credit in the same school year counts only once for the purposes of the incentive award.

(4) For the purposes of this section, the following students are considered to have earned dual high school and college credit in a course offered by a high school:

(a) Students who achieve a score of three or higher on an AP examination;

(b) Students who achieve a score of four or higher on an examination of the international baccalaureate diploma programme;

(c) Students who successfully complete a Cambridge advanced international certificate of education examination;

(d) Students who successfully complete a course through the college in the high school program under RCW 28A.600.290 and are awarded credit by the partnering institution of higher education; and

(e) Students who satisfy the dual enrollment and class performance requirements to earn college credit through a tech prep course.

(5) If a high school provides access to online courses for students to earn dual high school and college credit at no cost to the student, such a course is considered to be offered by the high school. Students enrolled in the running start program under RCW 28A.600.300 do not generate an incentive award under this section.

(6) The office of the superintendent of public instruction shall report to the education policy committees and the fiscal committees of the legislature, by January 1st of each year, information about the demographics of the students earning dual credits in the schools receiving grants under this section for the prior school year. Demographic data shall be disaggregated pursuant to RCW 28A.300.042.

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

In addition to data on student enrollment in dual credit courses, the office of the superintendent of public instruction shall collect and post on the Washington state report card web site the rates at which students earn college credit through a dual credit course, using the following criteria:

(1) Students who achieve a score of three or higher on an AP examination;

(2) Students who achieve a score of four or higher on an examination of the international baccalaureate diploma programme;

(3) Students who successfully complete a Cambridge advanced international certificate of education examination;

(4) Students who successfully complete a course through the college in the high school program under RCW 28A.600.290 and are awarded credit by the partnering institution of higher education; and

(5) Students who satisfy the dual enrollment and class performance requirements to earn college credit through a tech prep course; and

(6) Students who successfully complete a course through the running start program under RCW 28A.600.300 and are awarded credit by the institution of higher education.

**NEW SECTION. Sec. 5.** If specific funding for purposes of section 3 of this act, referencing section 3 of this act by bill or chapter and section number, is not provided by June 30, 2013, in the omnibus operating appropriations act, section 3 of this act is null and void."

On page 1, line 2 of the title, after "students;" strike the remainder of the title and insert "adding new sections to chapter 28A.320 RCW; adding a new section to chapter 28A.300 RCW; and creating new sections."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1642 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1642, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1642, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 86; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Dahlquist, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Hawkins, Hayes, Holy, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Maxwell, 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, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

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

Excused: Representatives DeBolt, Manweller and McCoy.

SECOND SUBSTITUTE HOUSE BILL NO. 1642, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1645 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.07.030 and 2011 1st sp.s. c 11 s 137 are each amended to read as follows:

(1) The Washington higher education facilities authority is hereby established as a public body corporate and politic, with perpetual corporate succession, constituting an agency of the state of Washington exercising essential governmental functions. The authority is a "public body" within the meaning of RCW 39.53.010.

(2) The authority shall consist of ~~((six))~~ seven members as follows: The governor, lieutenant governor, chair of the student achievement council or the chair's designee, and four public members,

one of whom shall be the president of a higher education institution at the time of appointment. The public members shall be residents of the state and appointed by the governor, subject to confirmation by the senate, on the basis of their interest or expertise in the provision of higher education and the financing of higher education. The public members of the authority shall serve for terms of four years. The initial terms of the public members shall be staggered in a manner determined by the governor. In the event of a vacancy on the authority due to death, resignation, or removal of one of the public members, and upon the expiration of the term of any public member, the governor shall appoint a successor for a term expiring on the fourth anniversary of the successor's date of the appointment. If any of the state offices are abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office. Any public member of the authority may be removed by the governor for misfeasance, malfeasance, willful neglect of duty, or any other cause after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing.

(3) The governor shall serve as chairperson of the authority. The authority shall elect annually one of its members as secretary. If the governor shall be absent from a meeting of the authority, the secretary shall preside. However, the governor may designate an employee of the governor's office to act on the governor's behalf in all other respects during the absence of the governor at any meeting of the authority. If the designation is in writing and is presented to the person presiding at the meetings of the authority who is included in the designation, the vote of the designee has the same effect as if cast by the governor.

(4) Any person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents, and papers filed with the authority, the minute book or a journal of the authority, and the authority's official seal, if any. The person may cause copies to be made of all minutes and other records and documents of the authority, and may give certificates to the effect that such copies are true copies. All persons dealing with the authority may rely upon the certificates.

(5) Four members of the authority constitute a quorum. Members participating in a meeting through the use of any means of communication by which all members participating can hear each other during the meeting shall be deemed to be present in person at the meeting for all purposes. The authority may act on the basis of a motion except when authorizing the issuance and sale of bonds, in which case the authority shall act by resolution. Bond resolutions and other resolutions shall be adopted upon the affirmative vote of four members of the authority, and shall be signed by those members voting yes. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting of the authority. All actions taken by the authority shall take effect immediately without need for publication or other public notice. A vacancy in the membership of the authority does not impair the power of the authority to act under this chapter.

(6) The members of the authority shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement, solely from the funds of the authority, for travel expenses as determined by the authority incurred in the discharge of their duties under this chapter."

On page 1, line 2 of the title, after "authority;" strike the remainder of the title and insert "and amending RCW 28B.07.030."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1645 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1645, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1645, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 91; Nays, 4; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Crouse, Dahlquist, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, 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 and Taylor.

Excused: Representatives DeBolt, Manweller and McCoy.

HOUSE BILL NO. 1645, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1679 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.02.010 and 2006 c 235 s 2 are each amended to read as follows:

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

(1) "Admission" has the same meaning as in RCW 71.05.020.

(2) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:

(a) Statutory, regulatory, fiscal, medical, or scientific standards;

(b) A private or public program of payments to a health care provider; or

(c) Requirements for licensing, accreditation, or certification.

~~((2))~~ (3) "Commitment" has the same meaning as in RCW 71.05.020.

(4) "Custody" has the same meaning as in RCW 71.05.020.

(5) "Deidentified" means health information that does not identify



an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

(6) "Department" means the department of social and health services.

(7) "Designated mental health professional" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

(8) "Detention" or "detain" has the same meaning as in RCW 71.05.020.

(9) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.

~~((3))~~ (10) "Discharge" has the same meaning as in RCW 71.05.020.

(11) "Evaluation and treatment facility" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

(12) "Federal, state, or local law enforcement authorities" means an officer of any agency or authority in the United States, a state, a tribe, a territory, or a political subdivision of a state, a tribe, or a territory who is empowered by law to: (a) Investigate or conduct an official inquiry into a potential criminal violation of law; or (b) prosecute or otherwise conduct a criminal proceeding arising from an alleged violation of law.

~~((4))~~ (13) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

~~((5))~~ (14) "Health care" means any care, service, or procedure provided by a health care provider:

(a) To diagnose, treat, or maintain a patient's physical or mental condition; or

(b) That affects the structure or any function of the human body.

~~((6))~~ (15) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

~~((7))~~ (16) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.

~~((8))~~ (17) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:

(a) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

(b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;

(c) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care, including stop-

loss insurance and excess of loss insurance, if any applicable legal requirements are met;

(d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

(e) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

(f) Business management and general administrative activities of the health care facility, health care provider, or third-party payor including, but not limited to:

(i) Management activities relating to implementation of and compliance with the requirements of this chapter;

(ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that health care information is not disclosed to such policy holder, plan sponsor, or customer;

(iii) Resolution of internal grievances;

(iv) The sale, transfer, merger, or consolidation of all or part of a health care provider, health care facility, or third-party payor with another health care provider, health care facility, or third-party payor or an entity that following such activity will become a health care provider, health care facility, or third-party payor, and due diligence related to such activity; and

(v) Consistent with applicable legal requirements, creating deidentified health care information or a limited dataset (~~and fund-raising~~) for the benefit of the health care provider, health care facility, or third-party payor.

~~((9))~~ (18) "Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

~~((10))~~ (19) "Human immunodeficiency virus" or "HIV" has the same meaning as in RCW 70.24.017.

(20) "Imminent" has the same meaning as in RCW 71.05.020.

(21) "Information and records related to mental health services" means a type of health care information that relates to all information and records, including mental health treatment records, compiled, obtained, or maintained in the course of providing services by a mental health service agency, as defined in this section. This may include documents of legal proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic health care information. For health care information maintained by a hospital as defined in RCW 70.41.020 or a health care facility or health care provider that participates with a hospital in an organized health care arrangement defined under federal law, "information and records related to mental health services" is limited to information and records of services provided by a mental health professional or information and records of services created by a hospital-operated community mental health program as defined in RCW 71.24.025(6).

(22) "Information and records related to sexually transmitted diseases" means a type of health care information that relates to the identity of any person upon whom an HIV antibody test or other sexually transmitted infection test is performed, the results of such tests, and any information relating to diagnosis of or treatment for any confirmed sexually transmitted infections.

(23) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

~~((11))~~ (24) "Legal counsel" has the same meaning as in RCW 71.05.020.

(25) "Local public health officer" has the same meaning as in

RCW 70.24.017.

~~(26)~~ "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

~~((42))~~ ~~(27)~~ "Mental health professional" has the same meaning as in RCW 71.05.020.

~~(28)~~ "Mental health service agency" means a public or private agency that provides services to persons with mental disorders as defined under RCW 71.05.020 or 71.34.020 and receives funding from public sources. This includes evaluation and treatment facilities as defined in RCW 71.34.020, community mental health service delivery systems, or community mental health programs, as defined in RCW 71.24.025, and facilities conducting competency evaluations and restoration under chapter 10.77 RCW.

~~(29)~~ "Mental health treatment records" include registration records, as defined in RCW 71.05.020, and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staff, and by treatment facilities. "Mental health treatment records" include mental health information contained in a medical bill including, but not limited to, mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. "Mental health treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

~~(30)~~ "Minor" has the same meaning as in RCW 71.34.020.

~~(31)~~ "Parent" has the same meaning as in RCW 71.34.020.

~~(32)~~ "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

~~((43))~~ ~~(33)~~ "Payment" means:

(a) The activities undertaken by:

(i) A third-party payor to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits by the third-party payor; or

(ii) A health care provider, health care facility, or third-party payor, to obtain or provide reimbursement for the provision of health care; and

(b) The activities in (a) of this subsection that relate to the patient to whom health care is provided and that include, but are not limited to:

(i) Determinations of eligibility or coverage, including coordination of benefits or the determination of cost-sharing amounts, and adjudication or subrogation of health benefit claims;

(ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and related health care data processing;

(iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(v) Utilization review activities, including precertification and preauthorization of services, and concurrent and retrospective review of services; and

(vi) Disclosure to consumer reporting agencies of any of the following health care information relating to collection of premiums or reimbursement:

(A) Name and address;

(B) Date of birth;

(C) Social security number;

(D) Payment history;

(E) Account number; and

(F) Name and address of the health care provider, health care facility, and/or third-party payor.

~~((44))~~ ~~(34)~~ "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

~~((45))~~ ~~(35)~~ "Professional person" has the same meaning as in RCW 71.05.020.

~~(36)~~ "Psychiatric advanced registered nurse practitioner" has the same meaning as in RCW 71.05.020.

~~(37)~~ "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

~~((46))~~ ~~(38)~~ "Release" has the same meaning as in RCW 71.05.020.

~~(39)~~ "Resource management services" has the same meaning as in RCW 71.05.020.

~~(40)~~ "Serious violent offense" has the same meaning as in RCW 71.05.020.

~~(41)~~ "Sexually transmitted infection" or "sexually transmitted disease" has the same meaning as "sexually transmitted disease" in RCW 70.24.017.

~~(42)~~ "Test for a sexually transmitted disease" has the same meaning as in RCW 70.24.017.

~~(43)~~ "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan, excluding fitness or wellness plans; or a state or federal health benefit program.

~~((47))~~ ~~(44)~~ "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another.

**Sec. 2.** RCW 70.02.020 and 2005 c 468 s 2 are each amended to read as follows:

**DISCLOSURE BY HEALTH CARE PROVIDER--PATIENT WRITTEN AUTHORIZATION REQUIRED.** (1) Except as authorized (~~in RCW 70.02.050~~) elsewhere in this chapter, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent and employee of a health care provider may not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the authorization.

(2) A patient has a right to receive an accounting of all disclosures of mental health treatment records except disclosures made under RCW 71.05.425.

(3) A patient has a right to receive an accounting of disclosures of health care information, except for mental health treatment records which are addressed in subsection (2) of this section, made by a health care provider or a health care facility in the six years before the date on which the accounting is requested, except for disclosures:

(a) To carry out treatment, payment, and health care operations;

- (b) To the patient of health care information about him or her;
- (c) Incident to a use or disclosure that is otherwise permitted or required;
- (d) Pursuant to an authorization where the patient authorized the disclosure of health care information about himself or herself;
- (e) Of directory information;
- (f) To persons involved in the patient's care;
- (g) For national security or intelligence purposes if an accounting of disclosures is not permitted by law;
- (h) To correctional institutions or law enforcement officials if an accounting of disclosures is not permitted by law; and
- (i) Of a limited data set that excludes direct identifiers of the patient or of relatives, employers, or household members of the patient.

**Sec. 3.** RCW 70.02.050 and 2007 c 156 s 12 are each amended to read as follows:

**DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--NEED-TO-KNOW BASIS.** (1) A health care provider or health care facility may disclose health care information, except for information and records related to sexually transmitted diseases which are addressed in section 6 of this act, about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is:

- (a) To a person who the provider or facility reasonably believes is providing health care to the patient;
- (b) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, actuarial services to, or other health care operations for or on behalf of the health care provider or health care facility; or for assisting the health care provider or health care facility in the delivery of health care and the health care provider or health care facility reasonably believes that the person:
  - (i) Will not use or disclose the health care information for any other purpose; and
  - (ii) Will take appropriate steps to protect the health care information;
- (c) ~~(To any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;~~
- ~~(d)) To any person if the health care provider or health care facility reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this chapter on the part of the provider or facility to so disclose. The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies is not subject to disclosure unless disclosure is permitted in section 7 of this act;~~
- ~~((e) To immediate family members of the patient, including a patient's state registered domestic partner, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;~~
- ~~(f) To a health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;~~
- ~~(g) For use in a research project that an institutional review board has determined:~~
  - ~~(i) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;~~
  - ~~(ii) Is impracticable without the use or disclosure of the health~~

- ~~care information in individually identifiable form;~~
- ~~(iii) Contains reasonable safeguards to protect the information from redisclosure;~~
- ~~(iv) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and~~
- ~~(v) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;~~
- ~~(h) To a person who obtains information for purposes of an audit, if that person agrees in writing to:~~
  - ~~(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and~~
  - ~~(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;~~
- ~~(i)) (d) To an official of a penal or other custodial institution in which the patient is detained;~~
- ~~((j) To provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;~~
- ~~(k) To fire, police, sheriff, or another public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;~~
- ~~(l) To federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;~~
- ~~(m) To another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010(8) (a) and (b);)~~
- ~~((n)) (e) For payment, including information necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.~~
- (2) A health care provider shall disclose health care information, except for information and records related to sexually transmitted diseases, unless otherwise authorized in section 6 of this act, about a patient without the patient's authorization if the disclosure is:
  - (a) To federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal licensure, certification or registration rules or laws, or to investigate unprofessional conduct or ability to practice with reasonable skill and safety under chapter 18.130 RCW. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW; or
  - (b) When needed to protect the public health(~~;~~)
    - ~~(b) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;~~
    - ~~(c) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the~~

~~patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:~~

~~(i) The name of the patient;~~  
~~(ii) The patient's residence;~~  
~~(iii) The patient's sex;~~  
~~(iv) The patient's age;~~  
~~(v) The patient's condition;~~  
~~(vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;~~  
~~(vii) Whether the patient was conscious when admitted;~~  
~~(viii) The name of the health care provider making the determination in (e)(v), (vi), and (vii) of this subsection;~~  
~~(ix) Whether the patient has been transferred to another facility;~~  
~~and~~

~~(x) The patient's discharge time and date;~~  
~~(d) To county coroners and medical examiners for the investigations of deaths;~~  
~~(e) Pursuant to compulsory process in accordance with RCW 70.02.060.~~

~~(3) All state or local agencies obtaining patient health care information pursuant to this section shall adopt rules establishing their record acquisition, retention, and security policies that are consistent with this chapter).~~

NEW SECTION. Sec. 4. A new section is added to chapter 70.02 RCW to read as follows:

**DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--PERMITTED AND MANDATORY DISCLOSURES.** (1) In addition to the disclosures authorized by RCW 70.02.050 and section 5 of this act, a health care provider or health care facility may disclose health care information, except for information and records related to sexually transmitted diseases and information related to mental health services which are addressed by sections 6 through 10 of this act, about a patient without the patient's authorization, to:

(a) Any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(b) Immediate family members of the patient, including a patient's state registered domestic partner, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(c) A health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;

(d) A person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(e) Provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;

(f) Fire, police, sheriff, or other public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;

(g) Federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor; and

(h) Another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010(17) (a) and (b).

(2) In addition to the disclosures required by RCW 70.02.050 and section 5 of this act, a health care provider shall disclose health care information, except for information related to sexually transmitted diseases and information related to mental health services which are addressed by sections 6 through 10 of this act, about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;

(b) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:

(i) The name of the patient;

(ii) The patient's residence;

(iii) The patient's sex;

(iv) The patient's age;

(v) The patient's condition;

(vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;

(vii) Whether the patient was conscious when admitted;

(viii) The name of the health care provider making the determination in (b)(v), (vi), and (vii) of this subsection;

(ix) Whether the patient has been transferred to another facility; and

(x) The patient's discharge time and date;

(c) Pursuant to compulsory process in accordance with RCW 70.02.060.

NEW SECTION. Sec. 5. A new section is added to chapter 70.02 RCW to read as follows:

**DISCLOSURE WITHOUT PATIENT'S AUTHORIZATION--RESEARCH.** (1) A health care provider or health care facility may disclose health care information about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is for use in a research project that an institutional review board has determined:

(a) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(b) Is impracticable without the use or disclosure of the health care information in individually identifiable form;

(c) Contains reasonable safeguards to protect the information from redisclosure;

(d) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and

(e) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project.

(2) In addition to the disclosures required by RCW 70.02.050 and section 4 of this act, a health care provider or health care facility shall disclose health care information about a patient without the patient's authorization if:

(a) The disclosure is to county coroners and medical examiners for the investigations of deaths;

(b) The disclosure is to a procurement organization or person to whom a body part passes for the purpose of examination necessary to assure the medical suitability of the body part; or

(c) The disclosure is to a person subject to the jurisdiction of the federal food and drug administration in regards to a food and drug administration-regulated product or activity for which that person has responsibility for quality, safety, or effectiveness of activities.

**NEW SECTION. Sec. 6.** A new section is added to chapter 70.02 RCW to read as follows:

**SEXUALLY TRANSMITTED DISEASES--PERMITTED AND MANDATORY DISCLOSURES.** (1) No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by this section, section 5 of this act, or chapter 70.24 RCW.

(2) No person may disclose or be compelled to disclose information and records related to sexually transmitted diseases, except as authorized by this section, section 5 of this act, or chapter 70.24 RCW. A person may disclose information related to sexually transmitted diseases about a patient without the patient's authorization, to the extent a recipient needs to know the information, if the disclosure is to:

(a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor fourteen years of age or over and otherwise competent;

(b) The state public health officer as defined in RCW 70.24.017, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

(c) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen, including that was provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;

(d) Any state or local public health officer conducting an investigation pursuant to RCW 70.24.024, so long as the record was obtained by means of court-ordered HIV testing pursuant to RCW 70.24.340 or 70.24.024;

(e) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure must: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other

appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship, and the treatment services;

(f) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW 70.24.022, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;

(g) A law enforcement officer, firefighter, health care provider, health care facility staff person, department of correction's staff person, jail staff person, or other persons as defined by the board of health in rule pursuant to RCW 70.24.340(4), who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to RCW 70.24.340(4), if a state or local public health officer performs the test;

(h) Claims management personnel employed by or associated with an insurer, health care service contractor, health maintenance organization, self-funded health plan, state administered health care claims payer, or any other payer of health care claims where such disclosure is to be used solely for the prompt and accurate evaluation and payment of medical or related claims. Information released under this subsection must be confidential and may not be released or available to persons who are not involved in handling or determining medical claims payment; and

(i) A department of social and health services worker, a child placing agency worker, or a guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations to the court regarding a child, who is less than fourteen years of age, has a sexually transmitted disease, and is in the custody of the department of social and health services or a licensed child placing agency. This information may also be received by a person responsible for providing residential care for such a child when the department of social and health services or a licensed child placing agency determines that it is necessary for the provision of child care services.

(3) No person to whom the results of a test for a sexually transmitted disease have been disclosed pursuant to subsection (2) of this section may disclose the test results to another person except as authorized by that subsection.

(4) The release of sexually transmitted disease information regarding an offender or detained person, except as provided in subsection (2)(d) of this section, is governed as follows:

(a) The sexually transmitted disease status of a department of corrections offender who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by department of corrections health care providers and local public health officers to the department of corrections health care administrator or infection control coordinator of the facility in which the offender is housed. The information made available to the health care administrator or the infection control coordinator under this subsection (4)(a) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities, including facilities that are not under the department of corrections' jurisdiction according to the provisions of (d) and (e) of this subsection.

(b) The sexually transmitted disease status of a person detained in a jail who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the local public health officer to a jail health care administrator or infection control coordinator. The information made available to a health care administrator under this subsection (4)(b) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, detainees, and the public. The

information may be submitted to transporting officers and receiving facilities according to the provisions of (d) and (e) of this subsection.

(c) Information regarding the sexually transmitted disease status of an offender or detained person is confidential and may be disclosed by a correctional health care administrator or infection control coordinator or local jail health care administrator or infection control coordinator only as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. Unauthorized disclosure of this information to any person may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080 or any other penalties as may be prescribed by law.

(d) Notwithstanding the limitations on disclosure contained in (a), (b), and (c) of this subsection, whenever any member of a jail staff or department of corrections staff has been substantially exposed to the bodily fluids of an offender or detained person, then the results of any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370, must be immediately disclosed to the staff person in accordance with the Washington Administrative Code rules governing employees' occupational exposure to bloodborne pathogens. Disclosure must be accompanied by appropriate counseling for the staff member, including information regarding follow-up testing and treatment. Disclosure must also include notice that subsequent disclosure of the information in violation of this chapter or use of the information to harass or discriminate against the offender or detainee may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080, and imposition of other penalties prescribed by law.

(e) The staff member must also be informed whether the offender or detained person had any other communicable disease, as defined in RCW 72.09.251(3), when the staff person was substantially exposed to the offender's or detainee's bodily fluids.

(f) The test results of voluntary and anonymous HIV testing or HIV-related condition, as defined in RCW 70.24.017, may not be disclosed to a staff person except as provided in this section and RCW 70.02.050(1)(e) and 70.24.340(4). A health care administrator or infection control coordinator may provide the staff member with information about how to obtain the offender's or detainee's test results under this section and RCW 70.02.050(1)(e) and 70.24.340(4).

(5) The requirements of this section do not apply to the customary methods utilized for the exchange of medical information among health care providers in order to provide health care services to the patient, nor do they apply within health care facilities where there is a need for access to confidential medical information to fulfill professional duties.

(6) Upon request of the victim, disclosure of test results under this section to victims of sexual offenses under chapter 9A.44 RCW must be made if the result is negative or positive. The county prosecuting attorney shall notify the victim of the right to such disclosure. The disclosure must be accompanied by appropriate counseling, including information regarding follow-up testing.

(7) A person, including a health care facility or health care provider, shall disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease and information and records related to sexually transmitted diseases to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal certification or registration rules or laws; or when needed to protect the public health. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW.

**NEW SECTION. Sec. 7.** A new section is added to chapter 70.02 RCW to read as follows:

**MENTAL HEALTH SERVICES, CONFIDENTIALITY OF RECORDS--PERMITTED DISCLOSURES.** (1) Except as provided

in this section, RCW 70.02.050, 71.05.445, 70.96A.150, 74.09.295, sections 5, 8, 9, and 10 of this act, or pursuant to a valid authorization under RCW 70.02.030, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed only:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

(i) Employed by the facility;

(ii) Who has medical responsibility for the patient's care;

(iii) Who is a designated mental health professional;

(iv) Who is providing services under chapter 71.24 RCW;

(v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(l) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(n) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(o) Pursuant to lawful order of a court;

(p) To qualified staff members of the department, to the director of regional support networks, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(q) Within the treatment facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(r) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department;

(s) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information contained in the mental health treatment records could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(t) Consistent with the requirements of the federal health information portability and accountability act, to a licensed mental health professional or a health care professional licensed under chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is providing care to a person, or to whom a person has been referred for evaluation or treatment, to assure coordinated care and treatment of that person. Psychotherapy notes, as defined in 45 C.F.R. Sec. 164.501, may not be released without authorization of the person who is the subject of the request for release of information;

(u) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (t) of this subsection;

(v) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one treatment facility to another. The release of records under this subsection is limited to the mental health treatment records required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(w) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(x) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient

was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(y) To all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(e). The department shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. The department may not release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(z)(i) To the secretary of social and health services for either program evaluation or research, or both so long as the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(3) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in section 10 of this act, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter

71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

**NEW SECTION. Sec. 8.** A new section is added to chapter 70.02 RCW to read as follows:

**MENTAL HEALTH SERVICES--MINORS--PERMITTED DISCLOSURES.** The fact of admission and all information and records related to mental health services obtained through treatment under chapter 71.34 RCW is confidential, except as authorized in RCW 70.02.050 and sections 5, 7, 9, and 10 of this act. Such confidential information may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of chapter 71.34 RCW, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To the minor, the minor's parent, and the minor's attorney, subject to RCW 13.50.100;

(4) To the courts as necessary to administer chapter 71.34 RCW;

(5) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address must be disclosed upon request;

(6) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

(7) To the secretary of social and health services for assistance in data collection and program evaluation or research so long as the secretary adopts rules for the conduct of such evaluation and research. The rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information



obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/ . . . . .";

(8) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(9) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(10) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(11) Upon the death of a minor, to the minor's next of kin;

(12) To a facility in which the minor resides or will reside;

(13) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(14) This section may not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary of the department of social and health services. The fact of admission and all information obtained pursuant to chapter 71.34 RCW are not admissible as evidence in any legal proceeding outside chapter 71.34 RCW, except guardianship or dependency, without the written consent of the minor or the minor's parent;

(15) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and 74.09.295;

(16) Pursuant to a lawful order of a court.

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

**MENTAL HEALTH SERVICES--DEPARTMENT OF CORRECTIONS.** (1) Information and records related to mental health services delivered to a person subject to chapter 9.94A or 9.95

RCW must be released, upon request, by a mental health service agency to department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office. The information must be provided only for the purpose of completing presentence investigations, supervision of an incarcerated person, planning for and provision of supervision of a person, or assessment of a person's risk to the community. The request must be in writing and may not require the consent of the subject of the records.

(2) The information to be released to the department of corrections must include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties, including those records and reports identified in subsection (1) of this section.

(3) The department shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific regional support networks and mental health service agencies that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.

(4) The department and the department of corrections, in consultation with regional support networks, mental health service agencies as defined in RCW 70.02.010, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules must:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(5) The information received by the department of corrections under this section must remain confidential and subject to the limitations on disclosure outlined in chapter 71.34 RCW, except as provided in RCW 72.09.585.

(6) No mental health service agency or individual employed by a mental health service agency may be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section.

(7) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(8) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under this chapter.

**NEW SECTION. Sec. 10.** A new section is added to chapter 70.02 RCW to read as follows:

**MENTAL HEALTH SERVICES--REQUESTS FOR INFORMATION AND RECORDS.** (1)(a) A mental health service agency shall release to the persons authorized under subsection (2) of this section, upon request:

(i) The fact, place, and date of an involuntary commitment, the fact and date of discharge or release, and the last known address of a person who has been committed under chapter 71.05 RCW.

(ii) Information and records related to mental health services, in the format determined under subsection (9) of this section, concerning a person who:

(A) Is currently committed to the custody or supervision of the department of corrections or the indeterminate sentence review board under chapter 9.94A or 9.95 RCW;

(B) Has been convicted or found not guilty by reason of insanity of a serious violent offense; or

(C) Was charged with a serious violent offense and the charges were dismissed under RCW 10.77.086.

(b) Legal counsel may release such information to the persons authorized under subsection (2) of this section on behalf of the mental health service agency, so long as nothing in this subsection requires the disclosure of attorney work product or attorney-client privileged information.

(2) The information subject to release under subsection (1) of this section must be released to law enforcement officers, personnel of a county or city jail, designated mental health professionals, public health officers, therapeutic court personnel as defined in RCW 71.05.020, or personnel of the department of corrections, including the indeterminate sentence review board and personnel assigned to perform board-related duties, when such information is requested during the course of business and for the purpose of carrying out the responsibilities of the requesting person's office. No mental health service agency or person employed by a mental health service agency, or its legal counsel, may be liable for information released to or used under the provisions of this section or rules adopted under this section except under RCW 71.05.680.

(3) A person who requests information under subsection (1)(a)(ii) of this section must comply with the following restrictions:

(a) Information must be requested only for the purposes permitted by this subsection and for the purpose of carrying out the responsibilities of the requesting person's office. Appropriate purposes for requesting information under this section include:

(i) Completing presentence investigations or risk assessment reports;

(ii) Assessing a person's risk to the community;

(iii) Assessing a person's risk of harm to self or others when confined in a city or county jail;

(iv) Planning for and provision of supervision of an offender, including decisions related to sanctions for violations of conditions of community supervision; and

(v) Responding to an offender's failure to report for department of corrections supervision;

(b) Information may not be requested under this section unless the requesting person has reasonable suspicion that the individual who is the subject of the information:

(i) Has engaged in activity indicating that a crime or a violation of community custody or parole has been committed or, based upon his or her current or recent past behavior, is likely to be committed in the near future; or

(ii) Is exhibiting signs of a deterioration in mental functioning which may make the individual appropriate for civil commitment under chapter 71.05 RCW; and

(c) Any information received under this section must be held confidential and subject to the limitations on disclosure outlined in this chapter, except:

(i) The information may be shared with other persons who have the right to request similar information under subsection (2) of this section, solely for the purpose of coordinating activities related to the individual who is the subject of the information in a manner consistent with the official responsibilities of the persons involved;

(ii) The information may be shared with a prosecuting attorney acting in an advisory capacity for a person who receives information under this section. A prosecuting attorney under this subsection is subject to the same restrictions and confidentiality limitations as the person who requested the information; and

(iii) As provided in RCW 72.09.585.

(4) A request for information and records related to mental health services under this section does not require the consent of the subject of the records. The request must be provided in writing, except to the extent authorized in subsection (5) of this section. A written request may include requests made by e-mail or facsimile so long as the requesting person is clearly identified. The request must specify the information being requested.

(5) In the event of an emergency situation that poses a significant risk to the public or the offender, a mental health service agency, or its legal counsel, shall release information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found to the department of corrections or law enforcement upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health service agency and the address or information about the location or whereabouts of the offender.

(6) Disclosure under this section to state or local law enforcement authorities is mandatory for the purposes of the federal health insurance portability and accountability act.

(7) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(8) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under this chapter.

(9) In collaboration with interested organizations, the department shall develop a standard form for requests for information related to mental health services made under this section and a standard format for information provided in response to the requests. Consistent with the goals of the health information privacy provisions of the federal health insurance portability and accountability act, in developing the standard form for responsive information, the department shall design the form in such a way that the information disclosed is limited to the minimum necessary to serve the purpose for which the information is requested.

**NEW SECTION. Sec. 11.** A new section is added to chapter 70.02 RCW to read as follows:

**HEALTH CARE INFORMATION--USE OR DISCLOSURE PROHIBITED.** (1) No person who receives health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, or actuarial services, or other health care operations for or on behalf of a health care provider or health care facility, may use or disclose any health care information received from the health care provider or health care facility in any manner that is inconsistent with the duties of the health care provider or health care facility under this chapter.

(2) A health care provider or health care facility that has a contractual relationship with a person to provide services described under subsection (1) of this section must terminate the contractual relationship with the person if the health care provider or health care facility learns that the person has engaged in a pattern of activity that violates the person's duties under subsection (1) of this section, unless the person took reasonable steps to correct the breach of confidentiality or has discontinued the violating activity.

**NEW SECTION. Sec. 12.** A new section is added to chapter 70.02 RCW to read as follows:

**HEALTH CARE PROVIDERS AND FACILITIES--PROHIBITED ACTIONS.** A health care provider, health care facility, and their assistants, employees, agents, and contractors may not:

(1) Use or disclose health care information for marketing or fundraising purposes, unless permitted by federal law;

(2) Sell health care information to a third party, except in a form that is deidentified and aggregated; or

(3) Sell health care information to a third party, except for the following purposes:

(a) Treatment or payment;

(b) Sale, transfer, merger, or consolidation of a business;

(c) Remuneration to a third party for services;

(d) Disclosures required by law;

(e) Providing access to or accounting of disclosures to an individual;

(f) Public health purposes;

(g) Research;

(h) With an individual's authorization;

(i) Where a reasonable cost-based fee is paid to prepare and transmit health information, where authority to disclose the information is provided in this chapter.

**NEW SECTION. Sec. 13.** A new section is added to chapter 70.02 RCW to read as follows:

**AGENCY RULE-MAKING REQUIREMENTS.** All state or local agencies obtaining patient health care information pursuant to RCW 70.02.050 and sections 4 through 8 of this act that are not health care facilities or providers shall adopt rules establishing their record acquisition, retention, and security policies that are consistent with this chapter.

**NEW SECTION. Sec. 14.** A new section is added to chapter 70.02 RCW to read as follows:

**SEXUALLY TRANSMITTED DISEASES--REQUIRED STATEMENT UPON DISCLOSURE.** Whenever disclosure is made of information and records related to sexually transmitted diseases pursuant to this chapter, except for RCW 70.02.050(1)(a) and section 6 (2) (a) and (b) and (7) of this act, it must be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written authorization of the person to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure must be accompanied or followed by such a notice within ten days.

**NEW SECTION. Sec. 15.** A new section is added to chapter 70.02 RCW to read as follows:

**MENTAL HEALTH SERVICES--RECORDS.** (1) Resource management services shall establish procedures to provide reasonable and timely access to individual mental health treatment records. However, access may not be denied at any time to records of all medications and somatic treatments received by the person.

(2) Following discharge, a person who has received mental health services has a right to a complete record of all medications and somatic treatments prescribed during evaluation, admission, or commitment and to a copy of the discharge summary prepared at the time of his or her discharge. A reasonable and uniform charge for reproduction may be assessed.

(3) Mental health treatment records may be modified prior to inspection to protect the confidentiality of other patients or the names of any other persons referred to in the record who gave information on the condition that his or her identity remain confidential. Entire documents may not be withheld to protect such confidentiality.

(4) At the time of discharge resource management services shall inform all persons who have received mental health services of their rights as provided in this chapter and RCW 71.05.620.

**NEW SECTION. Sec. 16.** A new section is added to chapter 70.02 RCW to read as follows:

**MENTAL HEALTH SERVICES--MINORS--NOTE IN RECORD UPON DISCLOSURE.** When disclosure of information and records related to mental services pertaining to a minor, as

defined in RCW 71.34.020, is made, the date and circumstances under which the disclosure was made, the name or names of the persons or agencies to whom such disclosure was made and their relationship if any, to the minor, and the information disclosed must be entered promptly in the minor's clinical record.

**NEW SECTION. Sec. 17.** A new section is added to chapter 70.02 RCW to read as follows:

**OBTAINING CONFIDENTIAL RECORDS UNDER FALSE PRETENSES--PENALTY.** Any person who requests or obtains confidential information and records related to mental health services pursuant to this chapter under false pretenses is guilty of a gross misdemeanor.

**NEW SECTION. Sec. 18.** A new section is added to chapter 70.02 RCW to read as follows:

**MENTAL HEALTH TREATMENT RECORDS--AGENCY RULE-MAKING AUTHORITY.** The department of social and health services shall adopt rules related to the disclosure of mental health treatment records in this chapter.

**NEW SECTION. Sec. 19.** A new section is added to chapter 70.02 RCW to read as follows:

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES--RELEASE OF INFORMATION TO PROTECT THE PUBLIC.** In addition to any other information required to be released under this chapter, the department of social and health services is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public, concerning a specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex offense as defined in RCW 9.94A.030.

**Sec. 20.** RCW 70.02.900 and 2011 c 305 s 10 are each amended to read as follows:

**CONFLICTING LAWS.** (1) This chapter does not restrict a health care provider, a third-party payor, or an insurer regulated under Title 48 RCW from complying with obligations imposed by federal or state health care payment programs or federal or state law.

(2) This chapter does not modify the terms and conditions of disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, 70.96A, (~~71.05, 71.34,~~) and 74.09 RCW and rules adopted under these provisions.

**Sec. 21.** RCW 71.05.660 and 2009 c 217 s 9 are each amended to read as follows:

**TREATMENT RECORDS--PRIVILEGED COMMUNICATIONS UNAFFECTED.** Nothing in this chapter or chapter 70.02, 70.96A, (~~71.05,~~) 71.34, or 70.96B RCW shall be construed to interfere with communications between physicians, psychiatric advanced registered nurse practitioners, or psychologists and patients and attorneys and clients.

**Sec. 22.** RCW 71.05.680 and 2005 c 504 s 713 are each amended to read as follows:

**TREATMENT RECORDS--ACCESS UNDER FALSE PRETENSES, PENALTY.** Any person who requests or obtains confidential information pursuant to RCW 71.05.620 (~~through 71.05.690~~) under false pretenses shall be guilty of a gross misdemeanor.

**Sec. 23.** RCW 71.05.620 and 2005 c 504 s 111 are each amended to read as follows:

**COURT FILES AND RECORDS.** (1) The files and records of court proceedings under this chapter and chapters 70.96A, 71.34, and 70.96B RCW shall be closed but shall be accessible to any person who is the subject of a petition and to the person's attorney, guardian ad litem, resource management services, or service providers authorized to receive such information by resource management services.

(2) The department shall adopt rules to implement this section.

**Sec. 24.** RCW 71.24.035 and 2011 c 148 s 4 are each amended to read as follows:

STATE MENTAL HEALTH AUTHORITY, PROGRAM. (1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045, until such time as a new regional support network is designated under RCW 71.24.320.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents, including parents who are respondents in dependency cases, in the following order of priority: (i) Persons with acute mental illness; (ii) adults with chronic mental illness and children who are severely emotionally disturbed; and (iii) persons who are seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for persons with mental illness which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in persons with mental illness becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are respondents in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards, RCW 71.24.320 and 71.24.330, which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and ~~((in RCW 71.05.390, 71.05.420, and 71.05.440))~~ chapter 70.02 RCW;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services;

(o) Certify crisis stabilization units that meet state minimum standards;

(p) Certify clubhouses that meet state minimum standards; and

(q) Certify triage facilities that meet state minimum standards.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification of a clubhouse shall at a minimum include:

(a) The facilities may be peer-operated and must be recovery-focused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

(15) The department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(16) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05(~~(?)~~) and 71.34(~~(?)~~) RCW and (~~(71.24 RCW)~~) this chapter. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05(~~(?)~~) and 71.34(~~(?)~~) RCW and (~~(71.24 RCW)~~) this chapter, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-

660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Regional support networks disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

**Sec. 25.** RCW 43.185C.030 and 2005 c 484 s 6 are each amended to read as follows:

WASHINGTON HOMELESS CENSUS OR COUNT. The department shall annually conduct a Washington homeless census or count consistent with the requirements of RCW (~~(43.63A.655)~~) 43.185C.180. The census shall make every effort to count all homeless individuals living outdoors, in shelters, and in transitional housing, coordinated, when reasonably feasible, with already existing homeless census projects including those funded in part by the United States department of housing and urban development under the McKinney-Vento homeless assistance program. The department shall determine, in consultation with local governments, the data to be collected.

All personal information collected in the census is confidential, and the department and each local government shall take all necessary steps to protect the identity and confidentiality of each person counted.

The department and each local government are prohibited from disclosing any personally identifying information about any homeless individual when there is reason to believe or evidence indicating that the homeless individual is an adult or minor victim of domestic violence, dating violence, sexual assault, or stalking or is the parent or guardian of a child victim of domestic violence, dating violence, sexual assault, or stalking; or revealing other confidential information regarding HIV/AIDS status, as found in (~~(RCW 70.24.105)~~) section 6 of this act. The department and each local government shall not ask any homeless housing provider to disclose personally identifying information about any homeless individuals when the providers implementing those programs have reason to believe or evidence indicating that those clients are adult or minor victims of domestic violence, dating violence, sexual assault, or stalking or are the parents or guardians of child victims of domestic violence, dating violence, sexual assault, or stalking. Summary data for the provider's facility or program may be substituted.

The Washington homeless census shall be conducted annually on a schedule created by the department. The department shall make summary data by county available to the public each year. This data,

and its analysis, shall be included in the department's annual updated homeless housing program strategic plan.

Based on the annual census and provider information from the local government plans, the department shall, by the end of year four, implement an online information and referral system to enable local governments and providers to identify available housing for a homeless person. The department shall work with local governments and their providers to develop a capacity for continuous case management to assist homeless persons.

By the end of year four, the department shall implement an organizational quality management system.

**Sec. 26.** RCW 70.05.070 and 2007 c 343 s 10 are each amended to read as follows:

**LOCAL HEALTH OFFICER.** The local health officer, acting under the direction of the local board of health or under direction of the administrative officer appointed under RCW 70.05.040 or 70.05.035, if any, shall:

(1) Enforce the public health statutes of the state, rules of the state board of health and the secretary of health, and all local health rules, regulations and ordinances within his or her jurisdiction including imposition of penalties authorized under RCW 70.119A.030 and 70.118.130, the confidentiality provisions in ~~((RCW 70.24.105))~~ section 6 of this act and rules adopted to implement those provisions, and filing of actions authorized by RCW 43.70.190;

(2) Take such action as is necessary to maintain health and sanitation supervision over the territory within his or her jurisdiction;

(3) Control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction;

(4) Inform the public as to the causes, nature, and prevention of disease and disability and the preservation, promotion and improvement of health within his or her jurisdiction;

(5) Prevent, control or abate nuisances which are detrimental to the public health;

(6) Attend all conferences called by the secretary of health or his or her authorized representative;

(7) Collect such fees as are established by the state board of health or the local board of health for the issuance or renewal of licenses or permits or such other fees as may be authorized by law or by the rules of the state board of health;

(8) Inspect, as necessary, expansion or modification of existing public water systems, and the construction of new public water systems, to assure that the expansion, modification, or construction conforms to system design and plans;

(9) Take such measures as he or she deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the local health department or individuals engaged in community health programs related to or part of the programs of the local health department.

**Sec. 27.** RCW 70.24.450 and 1999 c 391 s 3 are each amended to read as follows:

**CONFIDENTIALITY OF REPORTED INFORMATION--UNAUTHORIZED DISCLOSURE.** (1) In order to assure compliance with the protections under this chapter and the rules of the board, and to assure public confidence in the confidentiality of reported information, the department shall:

(a) Report annually to the board any incidents of unauthorized disclosure by the department, local health departments, or their employees of information protected under ~~((RCW 70.24.105))~~ section 6 of this act. The report shall include recommendations for preventing future unauthorized disclosures and improving the system of confidentiality for reported information; and

(b) Assist health care providers, facilities that conduct tests, local health departments, and other persons involved in disease reporting to understand, implement, and comply with this chapter and the rules of the board related to disease reporting.

(2) This section is exempt from RCW 70.24.084, 70.05.070, and 70.05.120.

**Sec. 28.** RCW 74.13.280 and 2009 c 520 s 72 are each amended to read as follows:

**CHILDREN PLACED IN OUT-OF-HOME CARE--CLIENT INFORMATION.** (1) Except as provided in ~~((RCW 70.24.105))~~ section 6 of this act, whenever a child is placed in out-of-home care by the department or a supervising agency, the department or agency shall share information known to the department or agency about the child and the child's family with the care provider and shall consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or supervising agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.

(2) Information about the child and the child's family shall include information known to the department or agency as to whether the child is a sexually reactive child, has exhibited high-risk behaviors, or is physically assaultive or physically aggressive, as defined in this section.

(3) Information about the child shall also include information known to the department or agency that the child:

(a) Has received a medical diagnosis of fetal alcohol syndrome or fetal alcohol effect;

(b) Has been diagnosed by a qualified mental health professional as having a mental health disorder;

(c) Has witnessed a death or substantial physical violence in the past or recent past; or

(d) Was a victim of sexual or severe physical abuse in the recent past.

(4) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law. Care providers shall agree in writing to keep the information that they receive confidential and shall affirm that the information will not be further disclosed or disseminated, except as authorized by law.

(5) Nothing in this section shall be construed to limit the authority of the department or supervising agencies to disclose client information or to maintain client confidentiality as provided by law.

(6) As used in this section:

(a) "Sexually reactive child" means a child who exhibits sexual behavior problems including, but not limited to, sexual behaviors that are developmentally inappropriate for their age or are harmful to the child or others.

(b) "High-risk behavior" means an observed or reported and documented history of one or more of the following:

(i) Suicide attempts or suicidal behavior or ideation;

(ii) Self-mutilation or similar self-destructive behavior;

(iii) Fire-setting or a developmentally inappropriate fascination with fire;

(iv) Animal torture;

(v) Property destruction; or

(vi) Substance or alcohol abuse.

(c) "Physically assaultive or physically aggressive" means a child who exhibits one or more of the following behaviors that are developmentally inappropriate and harmful to the child or to others:

(i) Observed assaultive behavior;

(ii) Reported and documented history of the child willfully assaulting or inflicting bodily harm; or

(iii) Attempting to assault or inflict bodily harm on other children or adults under circumstances where the child has the apparent ability or capability to carry out the attempted assaults including threats to use a weapon.

**Sec. 29.** RCW 74.13.289 and 2009 c 520 s 76 are each amended to read as follows:

CHILDREN PLACED IN OUT-OF-HOME CARE--BLOOD-BORNE PATHOGENS, TRAINING. (1) Upon any placement, the department or supervising agency shall inform each out-of-home care provider if the child to be placed in that provider's care is infected with a blood-borne pathogen, and shall identify the specific blood-borne pathogen for which the child was tested if known by the department or supervising agency.

(2) All out-of-home care providers licensed by the department shall receive training related to blood-borne pathogens, including prevention, transmission, infection control, treatment, testing, and confidentiality.

(3) Any disclosure of information related to HIV must be in accordance with ~~((RCW 70.24.105))~~ section 6 of this act.

(4) The department of health shall identify by rule the term "blood-borne pathogen" as used in this section.

**Sec. 30.** RCW 71.05.425 and 2011 c 305 s 5 are each amended to read as follows:

PERSONS COMMITTED FOLLOWING DISMISSAL OF SEX, VIOLENT, OR FELONY HARASSMENT OFFENSE--NOTIFICATION OF CONDITIONAL RELEASE, FINAL RELEASE, LEAVE, TRANSFER, OR ESCAPE. (1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings;

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter; and

(iv) The chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of the person on the date of the applicable offense.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person escaped and in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was

dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(3) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to ~~((RCW 71.05.390(18)))~~ section 7(2)(n) of this act. If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

**Sec. 31.** RCW 71.05.445 and 2009 c 320 s 4 are each amended to read as follows:

COURT-ORDERED MENTAL HEALTH TREATMENT--NOTIFICATIONS. (1)(a) When a mental health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.

(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her mental health service provider that he or she is subject to supervision by the department of corrections, the mental health service provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the mental health service provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132, the mental health service provider is not required to notify the department of corrections that the mental health service provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by e-mail or facsimile, so long as the notifying mental health service provider is clearly identified.

(2) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties.

(3) The department and the department of corrections, in consultation with regional support networks, mental health service providers as defined in RCW 71.05.020, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing

or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(4) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in chapter 71.05 RCW, except as provided in RCW 72.09.585.

(5) No mental health service provider or individual employed by a mental health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section ((except under RCW 71.05.440)).

(6) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(7) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(8) The department shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific regional support networks and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.

**Sec. 32.** RCW 72.09.585 and 2011 1st sp.s. c 40 s 24 are each amended to read as follows:

**MENTAL HEALTH SERVICES, INFORMATION--DEPARTMENT OF CORRECTIONS--REQUIRED INQUIRIES AND DISCLOSURES.** (1) When the department is determining an offender's risk management level, the department shall inquire of the offender and shall be told whether the offender is subject to court-ordered treatment for mental health services or chemical dependency services. The department shall request and the offender shall provide an authorization to release information form that meets applicable state and federal requirements and shall provide the offender with written notice that the department will request the offender's mental health and substance abuse treatment information. An offender's failure to inform the department of court-ordered treatment is a violation of the conditions of supervision if the offender is in the community and an infraction if the offender is in confinement, and the violation or infraction is subject to sanctions.

(2) When an offender discloses that he or she is subject to court-ordered mental health services or chemical dependency treatment, the department shall provide the mental health services provider or chemical dependency treatment provider with a written request for information and any necessary authorization to release information forms. The written request shall comply with rules adopted by the department of social and health services or protocols developed jointly by the department and the department of social and health services. A single request shall be valid for the duration of the offender's supervision in the community. Disclosures of information related to mental health services made pursuant to a department request shall not require consent of the offender.

(3) The information received by the department under RCW 71.05.445 or ((71.34.345)) section 9 of this act may be released to the indeterminate sentence review board as relevant to carry out its responsibility of planning and ensuring community protection with respect to persons under its jurisdiction. Further disclosure by the indeterminate sentence review board is subject to the limitations set forth in subsections (5) and (6) of this section and must be consistent with the written policy of the indeterminate sentence review board.

The decision to disclose or not shall not result in civil liability for the indeterminate sentence review board or staff assigned to perform board-related duties provided that the decision was reached in good faith and without gross negligence.

(4) The information received by the department under RCW 71.05.445 or ((71.34.345)) section 9 of this act may be used to meet the statutory duties of the department to provide evidence or report to the court. Disclosure to the public of information provided to the court by the department related to mental health services shall be limited in accordance with RCW 9.94A.500 or this section.

(5) The information received by the department under RCW 71.05.445 or ((71.34.345)) section 9 of this act may be disclosed by the department to other state and local agencies as relevant to plan for and provide offenders transition, treatment, and supervision services, or as relevant and necessary to protect the public and counteract the danger created by a particular offender, and in a manner consistent with the written policy established by the secretary. The decision to disclose or not shall not result in civil liability for the department or its employees so long as the decision was reached in good faith and without gross negligence. The information received by a state or local agency from the department shall remain confidential and subject to the limitations on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and, subject to these limitations, may be released only as relevant and necessary to counteract the danger created by a particular offender.

(6) The information received by the department under RCW 71.05.445 or ((71.34.345)) section 9 of this act may be disclosed by the department to individuals only with respect to offenders who have been determined by the department to have a high risk of reoffending by a risk assessment, as defined in RCW 9.94A.030, only as relevant and necessary for those individuals to take reasonable steps for the purpose of self-protection, or as provided in RCW 72.09.370(2). The information may not be disclosed for the purpose of engaging the public in a system of supervision, monitoring, and reporting offender behavior to the department. The department must limit the disclosure of information related to mental health services to the public to descriptions of an offender's behavior, risk he or she may present to the community, and need for mental health treatment, including medications, and shall not disclose or release to the public copies of treatment documents or records, except as otherwise provided by law. All disclosure of information to the public must be done in a manner consistent with the written policy established by the secretary. The decision to disclose or not shall not result in civil liability for the department or its employees so long as the decision was reached in good faith and without gross negligence. Nothing in this subsection prevents any person from reporting to law enforcement or the department behavior that he or she believes creates a public safety risk.

**Sec. 33.** RCW 9.94A.500 and 2008 c 231 s 2 are each amended to read as follows:

**SENTENCING HEARINGS--PREVENTION OF WRONGFUL DISCLOSURE OF MENTAL HEALTH SERVICES RECORDS AND INFORMATION.** (1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report



before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW, a criminal solicitation to commit such a violation under chapter 9A.28 RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to his or her offense. In addition, the court shall, at the time of plea or conviction, order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the department to complete a presentence report before imposing a sentence.

The court shall consider the risk assessment report and presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

A criminal history summary relating to the defendant from the prosecuting authority or from a state, federal, or foreign governmental agency shall be prima facie evidence of the existence and validity of the convictions listed therein. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all risk assessment reports and presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

(2) To prevent wrongful disclosure of information and records related to mental health services, as ~~(defined)~~ described in RCW 71.05.445 and ~~((71.34.345))~~ section 9 of this act, a court may take only those steps necessary during a sentencing hearing or any hearing in which the department presents information related to mental health services to the court. The steps may be taken on motion of the defendant, the prosecuting attorney, or on the court's own motion. The court may seal the portion of the record relating to information relating to mental health services, exclude the public from the hearing during presentation or discussion of information and records relating to mental health services, or grant other relief to achieve the result intended by this subsection, but nothing in this subsection shall be construed to prevent the subsequent release of information and records related to mental health services as authorized by RCW 71.05.445, ~~((71.34.345))~~ section 9 of this act, or 72.09.585. Any person who otherwise is permitted to attend any hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely because the department intends to disclose or discloses information related to mental health services.

**NEW SECTION. Sec. 34. REPEALERS.** The following acts or parts of acts are each repealed:

(1) RCW 70.24.105 (Disclosure of HIV antibody test or testing or treatment of sexually transmitted diseases--Exchange of medical information) and 2011 c 232 s 1;

(2) RCW 71.05.390 (Confidential information and records--Disclosure) and 2011 c 305 s 4;

(3) RCW 71.05.640 (Treatment records--Access procedures) and 2005 c 504 s 712, 2005 c 504 s 113, 2000 c 94 s 11, & 1999 c 13 s 9;

(4) RCW 71.05.385 (Information subject to disclosure to authorized persons--Restrictions) and 2011 1st sp.s. c 40 s 23 & 2009 c 320 s 2;

(5) RCW 71.05.420 (Records of disclosure) and 2009 c 217 s 7, 2005 c 504 s 110, 1990 c 3 s 113, & 1973 1st ex.s. c 142 s 47;

(6) RCW 71.05.440 (Action for unauthorized release of confidential information--Liquidated damages--Treble damages--Injunction) and 1990 c 3 s 114, 1974 ex.s. c 145 s 28, & 1973 1st ex.s. c 142 s 49;

(7) RCW 71.05.427 (Persons committed following dismissal of sex offense--Release of information authorized) and 1990 c 3 s 110;

(8) RCW 71.05.630 (Treatment records--Confidential--Release) and 2009 c 398 s 1, 2009 c 320 s 5, 2009 c 217 s 8, 2007 c 191 s 1, 2005 c 504 s 112, 2000 c 75 s 5, & 1989 c 205 s 13;

(9) RCW 71.05.690 (Treatment records--Rules) and 2005 c 504 s 714 & 1999 c 13 s 12;

(10) RCW 71.34.340 (Information concerning treatment of minors confidential--Disclosure--Admissible as evidence with written consent) and 2011 c 305 s 9, 2005 c 453 s 6, 2000 c 75 s 7, & 1985 c 354 s 18;

(11) RCW 71.34.345 (Mental health services information--Release to department of corrections--Rules) and 2004 c 166 s 8, 2002 c 39 s 1, & 2000 c 75 s 2; and

(12) RCW 71.34.350 (Disclosure of information or records--Required entries in minor's clinical record) and 1985 c 354 s 22.

**NEW SECTION. Sec. 35. EFFECTIVE DATE.** Except for section 5 of this act, this act takes effect July 1, 2014.

**NEW SECTION. Sec. 36. EMERGENCY CLAUSE--EFFECTIVE DATE.** Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "information;" strike the remainder of the title and insert "amending RCW 70.02.010, 70.02.020, 70.02.050, 70.02.900, 71.05.660, 71.05.680, 71.05.620, 71.24.035, 43.185C.030, 70.05.070, 70.24.450, 74.13.280, 74.13.289, 71.05.425, 71.05.445, 72.09.585, and 9.94A.500; adding new sections to chapter 70.02 RCW; repealing RCW 70.24.105, 71.05.390, 71.05.640, 71.05.385, 71.05.420, 71.05.440, 71.05.427, 71.05.630, 71.05.690, 71.34.340, 71.34.345, and 71.34.350; prescribing penalties; providing an effective date; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1679 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1679, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1679, as amended by the Senate, and the

bill passed the House by the following vote: Yeas, 88; Nays, 7; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Dahlquist, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hawkins, Hayes, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pike, 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, Crouse, Holy, Overstreet, Scott, Shea and Taylor.

Excused: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1679, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 16, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1688 with the following amendment:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature finds that preserving a safe and beneficial learning environment for all students requires the establishment and enforcement of appropriate student discipline policies. The legislature further finds that although physical restraint and isolation of a student should be avoided, there may be circumstances where school district boards of directors have authorized these actions to preserve the safety of other students and school staff. Nevertheless, if an incident of student restraint or isolation occurs, school personnel should be held accountable for providing a thorough explanation of the circumstances.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.600 RCW to read as follows:

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

(a) "Isolation" means excluding a student from his or her regular instructional area and restricting the student alone within a room or any other form of enclosure, from which the student may not leave.

(b) "Restraint" means physical intervention or force used to control a student, including the use of a restraint device.

(c) "Restraint device" means a device used to assist in controlling a student, including but not limited to metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons.

(2) The provisions of this section apply only to any restraint of a student who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973 that results in a physical injury to a student or a staff member, any restraint of a student who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973, and any isolation of a student who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973. The provisions of this section apply only to incidents of restraint or isolation that occur while a student who has an individualized education program or plan developed under section 504 of the

rehabilitation act of 1973 is participating in school-sponsored instruction or activities.

(3) Following the release of a student from the use of restraint or isolation, the school must implement follow-up procedures. These procedures must include reviewing the incident with the student and the parent or guardian to address the behavior that precipitated the restraint or isolation and reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed.

(4) Any school employee, resource officer, or school security officer who uses any chemical spray, mechanical restraint, or physical force on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report should include, at a minimum, the following information:

(a) The date and time of the incident;

(b) The name and job title of the individual who administered the restraint or isolation;

(c) A description of the activity that led to the restraint or isolation;

(d) The type of restraint or isolation used on the student, including the duration; and

(e) Whether the student or staff was physically injured during the restraint or isolation and any medical care provided.

(5) The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.155 RCW to read as follows:

A school that is required to develop an individualized education program as required by federal law must include within the plan procedures for notification of a parent or guardian regarding the use of restraint or isolation.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28A.600 RCW to read as follows:

Parents and guardians of children who have individualized education programs or plans developed under section 504 of the rehabilitation act of 1973 must be provided a copy of the district policy on the use of isolation and restraint at the time that the program or plan is created."

On page 1, line 2 of the title, after "schools;" strike the remainder of the title and insert "adding new sections to chapter 28A.600 RCW; adding a new section to chapter 28A.155 RCW; and creating a new section."

and the same is herewith transmitted.

Hunter Goodman, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1688 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1688, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1688, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1688, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1736 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) In order to enhance the efficiency and effectiveness of operations of institutions of higher education, the office of financial management shall work with the department of enterprise services, the department of transportation, the department of commerce, institutions of higher education, and others as necessary to comprehensively review reporting requirements related to the provisions in RCW 19.27A.020, 19.27A.150, 70.235.020, 39.35D.020, 43.19.565, 43.41.130, 47.01.440, 70.94.151, 70.94.161, 70.94.527, 70.120A.010, 70.120A.050, 70.235.030, 70.235.040, 70.235.050, 70.235.060, 70.235.070, 80.80.030, 80.80.040, and 80.80.080. By September 1, 2014, the office of financial management shall report to the governor and the higher education committees of the legislature. The report shall include recommendations for coordinating and streamlining reporting, and promoting the most efficient use of state resources at institutions of higher education.

(2) This section expires August 1, 2015.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Institutions of higher education and state higher education agencies may use or accept secure electronic signatures for any human resource, benefits, or payroll processes that require a signature. Such signatures are valid and enforceable.

(2) The definitions in this subsection apply throughout this section.

(a) "Electronic signature" means an electronic sound, symbol, or process, attached to, or logically associated with, a contract or other record and executed or adopted by a person with the intent to sign the record.

(b) "Secure electronic signature" means an electronic signature that:

(i) Is unique to the person making the signature;

(ii) Uses a technology or process to make the signature that is under the sole control of the person making the signature;

(iii) Uses a technology or process that can identify the person using the technology or process; and

(iv) Can be linked with an electronic record in such a way that it can be used to determine whether the electronic record has been changed since the electronic signature was incorporated in, attached to, or associated with the electronic record.

**Sec. 3.** RCW 28B.85.020 and 2012 c 229 s 543 are each amended to read as follows:

(1) The council:

(a) Shall adopt by rule, in accordance with chapter 34.05 RCW, minimum standards for degree-granting institutions concerning granting of degrees, quality of education, unfair business practices, financial stability, and other necessary measures to protect citizens of this state against substandard, fraudulent, or deceptive practices. The rules shall require that an institution operating in Washington:

(i) Be accredited;

(ii) Have applied for accreditation and such application is pending before the accrediting agency;

(iii) Have been granted a waiver by the council waiving the requirement of accreditation; or

(iv) Have been granted an exemption by the council from the requirements of this subsection (1)(a);

(b) May investigate any entity the council reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the council may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the council deems relevant or material to the investigation. The council, including its staff and any other authorized persons, may conduct site inspections, the cost of which shall be borne by the institution, and examine records of all institutions subject to this chapter;

(c) May negotiate and enter into interstate reciprocity agreements with other state or multistate entities if the agreements are consistent with the purposes in this chapter as determined by the council;

(d) May enter into agreements with degree-granting institutions of higher education based in this state, that are otherwise exempt under the provisions of subsection (1)(a) of this section, for the purpose of ensuring consistent consumer protection in interstate distance delivery of higher education;

(e) Shall develop an interagency agreement with the workforce training and education coordinating board to regulate degree-granting private vocational schools with respect to degree and nondegree programs; and

~~((f))~~ (f) Shall develop and disseminate information to the public about entities that sell or award degrees without requiring appropriate academic achievement at the postsecondary level, including but not limited to, a description of the substandard and potentially fraudulent practices of these entities, and advice about how the public can recognize and avoid the entities. To the extent feasible, the information shall include links to additional resources that may assist the public in identifying specific institutions offering substandard or fraudulent degree programs.

(2) Financial disclosures provided to the council by degree-granting private vocational schools are not subject to public disclosure under chapter 42.56 RCW.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28B.15 RCW to read as follows:

(1) One student advisory committee may be formed at each four-year institution of higher education by that institution's recognized student government organization for the purpose of advising and assisting the administration of that four-year institution of higher education on issues that directly affect students' ability to access and succeed in their educational programs. Issues that the student advisory committee may consider include:

- (a) The institution's annual budget;
- (b) Tuition and fee levels;
- (c) Financial aid policies;
- (d) Long-range budget priorities and allocation planning; and
- (e) Admission and enrollment policies.

(2) Members of a student advisory committee may be appointed in a manner that is consistent with policies adopted by the recognized student government organizations at each institution. If there is both an undergraduate and graduate recognized student government organization at one institution, members of the student advisory committee may be appointed in a manner consistent with policies adopted by both organizations.

(3) The administration of each four-year institution of higher education must: (a) Make readily available all nonconfidential information, documents, and reports requested by the student advisory committee and that are necessary for the committee to provide informed recommendations; and (b) provide the opportunity to present recommendations to the boards of regents or trustees before final decisions of the administration that relate to the issues described in subsection (1) of this section.

(4) A student advisory committee must: (a) Make reasonable efforts to solicit feedback from students regarding the issues described in subsection (1) of this section and matters that are of general interest and impact students; and (b) take reasonable steps to keep students informed of deliberations and actions of the student advisory committee."

On page 1, line 1 of the title, after "efficiencies;" strike the remainder of the title and insert "amending RCW 28B.85.020; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 28B.15 RCW; creating a new section; and providing an expiration date."

and the same is herewith transmitted.

Hunter Goodman, Secretary

#### **SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1736 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1736, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of House Bill No. 1736, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 92; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Sells, Shea, 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 Overstreet, Pike and Taylor.

Excused: Representatives DeBolt, Manweller and McCoy.

HOUSE BILL NO. 1736, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### **MESSAGE FROM THE SENATE**

April 17, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1737 with the following amendment:

On page 3, line 30, after "supervision" insert ": (a) more than three physician assistants who are working in remote sites; or (b)"

On page 5, line 2, after "supervision" insert ": (a) more than three physician assistants who are working in remote sites; or (b)"

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### **SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1737 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1737, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1737, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1737, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 15, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774 with the following amendment:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** (1) The legislature recognizes that the goals of the child welfare system are to protect the safety, permanence, and well-being of the children it serves. The legislature further recognizes the importance of maintaining publicly accessible data that tracks the performance of the child welfare system, leading to transparency and public understanding of the system.

(2) The legislature believes it is important to measure safety, permanence, and well-being such that the public and the legislature may understand how the child welfare system is performing. This information will also serve the legislature in determining priorities for investment of public dollars as well as need for substantive legislative changes to facilitate improvement.

(3) The reports to the legislature under section 2 of this act will be used to provide feedback to the department of social and health services. The agencies referenced in section 2 of this act will not disclose individually identifiable private information except as allowable under federal and state law.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.13 RCW to read as follows:

(1) A university-based child welfare research entity and the department, in collaboration with other stakeholders, shall develop measurements in the areas of safety, permanency, and well-being, using existing and available data. Measurements must be calculated from data used in the routine work of the state agencies' data and information technology departments. Any new record linkage or data-matching activities required in fulfillment of this section may be performed by the research entity pursuant to agreements developed under subsection (6) of this section.

(2) For the purposes of this section, "state agencies" means any agency or subagency providing data used in the integrated client database maintained by the research and data analysis division of the department. Any exchange of data must be in accordance with applicable federal and state law.

(3) All measurements must use a methodology accepted by the scientific community. All measurements must address any disproportionate racial and ethnic inequality. The initial measurements must be developed by December 1, 2013.

(4) The measurements may not require the state agencies to revise their data collection systems, and may not require the state agencies to provide individually identifiable information.

(5) The state agencies shall provide the research entity with all measurement data related to the measurements developed under this

section at least quarterly beginning July 1, 2014. The research entity shall make any nonidentifiable data publicly available. The research entity shall report on the data to the legislature and the governor annually starting December 31, 2014.

(6) By January 1, 2014, the state agencies shall execute agreements with the research entity to enable sharing of data pursuant to RCW 42.48.020 sufficient to comply with this section.

(7) The fact that the research entity has chosen to use a specific measure, use a specific baseline, or compare any measure to a baseline is not admissible as evidence of negligence by the department in a civil action.

**Sec. 3.** RCW 74.13B.020 and 2012 c 205 s 3 are each amended to read as follows:

(1) No later than ~~((December 1, 2013))~~ July 1, 2014, the department shall enter into performance-based contracts for the provision of family support and related services. The department may enter into performance-based contracts for additional services, other than case management.

(2) ~~((Beginning December 1, 2013, the department may not renew its current contracts with individuals or entities for the provision of the child welfare services included in performance-based contracts under this section for services in geographic areas served by network administrators under such contracts, except as mutually agreed upon between the department and the network administrator to allow for the successful transition of services that meet the needs of children and families.~~

~~---~~  
~~((3))~~ The department shall conduct a procurement process to enter into performance-based contracts with one or more network administrators for family support and related services. As part of the procurement process, the department shall consult with department caseworkers, the exclusive bargaining representative for employees of the department, tribal representatives, parents who were formerly involved in the child welfare system, youth currently or previously in foster care, child welfare services researchers, and the Washington state institute for public policy to assist in identifying the categories of family support and related services that will be included in the procurement. The categories of family support and related services shall be defined no later than July 15, 2012. In identifying services, the department must review current data and research related to the effectiveness of family support and related services that mitigate child safety concerns and promote permanency, including reunification, and child well-being. Expenditures for family support and related services purchased under this section must remain within the levels appropriated in the operating budget.

~~((4))~~ ~~(3)~~(a) Network administrators shall, directly or through subcontracts with service providers:

(i) Assist caseworkers in meeting their responsibility for implementation of case plans and individual service and safety plans; and

(ii) Provide the family support and related services within the categories of contracted services that are included in a child or family's case plan or individual service and safety plan within funds available under contract.

(b) While the department caseworker retains responsibility for case management, nothing in chapter 205, Laws of 2012 limits the ability of the department to continue to contract for the provision of case management services by child-placing agencies, behavioral rehabilitation services agencies, or other entities that provided case management under contract with the department prior to July 1, 2005.

~~((5))~~ ~~(4)~~ In conducting the procurement, the department shall actively consult with other state agencies with relevant expertise, such as the health care authority, and with philanthropic entities with expertise in performance-based contracting for child welfare services. The director of the office of financial management must approve the request for proposal prior to its issuance.

~~((6))~~ (5) The procurement process must be developed and implemented in a manner that complies with applicable provisions of intergovernmental agreements between the state of Washington and tribal governments and must provide an opportunity for tribal governments to contract for service delivery through network administrators.

~~((7))~~ (6) The procurement and resulting contracts must include, but are not limited to, the following standards and requirements:

(a) The use of family engagement approaches to successfully motivate families to engage in services and training of the network's contracted providers to apply such approaches;

(b) The use of parents and youth who are successful veterans of the child welfare system to act as mentors through activities that include, but are not limited to, helping families navigate the system, facilitating parent engagement, and minimizing distrust of the child welfare system;

(c) The establishment of qualifications for service providers participating in provider networks, such as appropriate licensure or certification, education, and accreditation by professional accrediting entities;

(d) Adequate provider capacity to meet the anticipated service needs in the network administrator's contracted service area. The network administrator must be able to demonstrate that its provider network is culturally competent and has adequate capacity to address disproportionality, including utilization of tribal and other ethnic providers capable of serving children and families of color or who need language-appropriate services;

(e) Fiscal solvency of network administrators and providers participating in the network;

(f) The use of evidence-based, research-based, and promising practices, where appropriate, including fidelity and quality assurance provisions;

(g) Network administrator quality assurance activities, including monitoring of the performance of providers in their provider network, with respect to meeting measurable service outcomes;

(h) Network administrator data reporting, including data on contracted provider performance and service outcomes; and

(i) Network administrator compliance with applicable provisions of intergovernmental agreements between the state of Washington and tribal governments and the federal and Washington state Indian child welfare act.

~~((8))~~ (7) As part of the procurement process under this section, the department shall issue the request for proposals or request for information no later than December 31, ~~((2012. The department shall notify the apparently successful bidders no later than June 30, 2013))~~ 2013, shall begin implementation of performance-based contracting no later than July 1, 2014, and shall fully implement performance-based contracting no later than July 1, 2015.

~~((9))~~ (8) Performance-based payment methodologies must be used in network administrator contracting. Performance measures should relate to successful engagement by a child or parent in services included in their case plan, and resulting improvement in identified problem behaviors and interactions. For the initial three-year period of implementation of performance-based contracting, the department may transfer financial risk for the provision of services to network administrators only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. However, the department may develop a shared savings methodology through which the network administrator will receive a defined share of any savings that result from improved performance. If the department receives a Title IV-E waiver, the shared savings methodology must be consistent with the terms of the waiver. If a shared savings methodology is adopted, the network administrator shall reinvest the savings in enhanced services to better meet the needs of the families and children they serve.

~~((10))~~ (9) The department must actively monitor network administrator compliance with the terms of contracts executed under this section.

~~((11))~~ (10) The use of performance-based contracts under this section must be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare-related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

**Sec. 4.** RCW 74.13.360 and 2012 c 205 s 8 are each amended to read as follows:

(1) No later than December 30, ~~((2015))~~ 2016:

(a) In the demonstration sites selected under RCW 74.13.368(4)(a), child welfare services shall be provided by supervising agencies with whom the department has entered into performance-based contracts. Supervising agencies may enter into subcontracts with other licensed agencies; and

(b) Except as provided in subsection (3) of this section, and notwithstanding any law to the contrary, the department may not directly provide child welfare services to families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a).

(2) No later than December 30, ~~((2015))~~ 2016, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department is responsible for only the following:

(a) Monitoring the quality of services for which the department contracts under this chapter;

(b) Ensuring that the services are provided in accordance with federal law and the laws of this state, including the Indian child welfare act;

(c) Providing child protection functions and services, including intake and investigation of allegations of child abuse or neglect, emergency shelter care functions under RCW 13.34.050, and referrals to appropriate providers; and

(d) Issuing licenses pursuant to chapter 74.15 RCW.

(3) No later than December 30, ~~((2015))~~ 2016, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department may provide child welfare services only:

(a) For the limited purpose of establishing a control or comparison group as deemed necessary by the child welfare transformation design committee, with input from the Washington state institute for public policy, to implement the demonstration sites selected and defined pursuant to RCW 74.13.368(4)(a) in which the performance in achieving measurable outcomes will be compared and evaluated pursuant to RCW 74.13.370; or

(b) In an emergency or as a provider of last resort. The department shall adopt rules describing the circumstances under which the department may provide those services. For purposes of this section, "provider of last resort" means the department is unable to contract with a private agency to provide child welfare services in a particular geographic area or, after entering into a contract with a private agency, either the contractor or the department terminates the contract.

(4) For purposes of this chapter, on and after September 1, 2010, performance-based contracts shall be structured to hold the supervising agencies accountable for achieving the following goals in order of importance: Child safety; child permanency, including reunification; and child well-being.

(5) A federally recognized tribe located in this state may enter into a performance-based contract with the department to provide child welfare services to Indian children whether or not they reside on a reservation. Nothing in this section prohibits a federally recognized Indian tribe located in this state from providing child welfare services

to its members or other Indian children pursuant to existing tribal law, regulation, or custom, or from directly entering into agreements for the provision of such services with the department, if the department continues to otherwise provide such services, or with federal agencies.

**NEW SECTION. Sec. 5.** RCW 74.13.368 (Performance-based contracts--Child welfare transformation design committee) and 2012 c 205 s 10, 2010 c 291 s 2, & 2009 c 520 s 8 are each suspended as of the effective date of this section until December 1, 2015."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "measuring performance and performance-based contracting of the child welfare system; amending RCW 74.13B.020 and 74.13.360; adding a new section to chapter 74.13 RCW; and creating new sections."

and the same is herewith transmitted.

Hunter Goodman, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1774, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1774, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 90; Nays, 5; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Crouse, Dahlquist, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pike, 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, Scott, Shea and Taylor.

Excused: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 17, 2013

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1800 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.64.011 and 2009 c 549 s 1008 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated when used in this chapter.

(1) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) "Board" means the Washington state board of pharmacy.

(3) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

(4) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(5) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

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

(7) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

(8) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(9) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(10) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(11) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(12) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state. Health care entity includes a freestanding outpatient surgery center or a freestanding cardiac care center. It does not include an individual practitioner's office or a multipractitioner clinic.

(13) "Labeling" shall mean the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(14) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(15) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, personally prepares, compounds, packages, or labels such substance or device. "Manufacture" includes the distribution of a licensed pharmacy compounded drug product to other state licensed persons or commercial entities for subsequent resale or distribution, unless a specific product item has approval of the board. The term does not include:

(a) The activities of a licensed pharmacy that compounds a product on or in anticipation of an order of a licensed practitioner for use in the course of their professional practice to administer to patients, either personally or under their direct supervision;

(b) The practice of a licensed pharmacy when repackaging commercially available medication in small, reasonable quantities for a practitioner legally authorized to prescribe the medication for office use only;

(c) The distribution of a drug product that has been compounded by a licensed pharmacy to other appropriately licensed entities under common ownership or control of the facility in which the compounding takes place; or

(d) The delivery of finished and appropriately labeled compounded products dispensed pursuant to a valid prescription to alternate delivery locations, other than the patient's residence, when requested by the patient, or the prescriber to administer to the patient, or to another licensed pharmacy to dispense to the patient.

(16) "Manufacturer" shall mean a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(17) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement.

(18) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(19) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(20) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(21) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(22) The word "poison" shall not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(23) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(24) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(25) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

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

(27) "Wholesaler" shall mean a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

**Sec. 2.** RCW 18.64.270 and 2003 c 53 s 137 are each amended to read as follows:

(1) Every proprietor of a wholesale or retail drug store shall be held responsible for the quality of all drugs, chemicals or medicines sold or dispensed by him or her except those sold in original packages of the manufacturer and except those articles or preparations known as patent or proprietary medicines.

(2) Any medicinal products that are compounded for patient administration or distribution to a licensed practitioner for patient use or administration shall, at a minimum, meet the standards of the official United States pharmacopeia as it applies to nonsterile products and sterile administered products.

(3) Any person who shall knowingly, willfully or fraudulently falsify or adulterate any drug or medicinal substance or preparation authorized or recognized by an official compendium or used or intended to be used in medical practice, or shall willfully, knowingly or fraudulently offer for sale, sell or cause the same to be sold for medicinal purposes, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not less than seventy-five nor more than one hundred and fifty dollars or by imprisonment in the county jail for a period of not less than one month nor more than three months, and any person convicted a third time for violation of this section may suffer both fine and imprisonment. In any case he or she shall forfeit to the state of Washington all drugs or preparations so falsified or adulterated.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "medications;" strike the remainder of the title and insert "amending RCW 18.67.270; reenacting and amending RCW 18.64.011; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1800 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1800, as amended by the Senate.



**ROLL CALL**

The Clerk called the roll on the final passage of House Bill No. 1800, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

HOUSE BILL NO. 1800, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 17, 2013

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1826 with the following amendment:

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 19.280.010 and 2006 c 195 s 1 are each amended to read as follows:

It is the intent of the legislature to encourage the development of new safe, clean, and reliable energy resources to meet demand in Washington for affordable and reliable electricity. To achieve this end, the legislature finds it essential that electric utilities in Washington develop comprehensive resource plans that explain the mix of generation and demand-side resources they plan to use to meet their customers' electricity needs in both the short term and the long term. The legislature intends that information obtained from integrated resource planning under this chapter will be used to assist in identifying and developing: (1) New energy generation(;) (2) conservation and efficiency resources(;) (3) methods, commercially available technologies, and facilities for integrating renewable resources, including addressing any overgeneration event; and (4) related infrastructure to meet the state's electricity needs.

**Sec. 2.** RCW 19.280.020 and 2009 c 565 s 19 are each amended to read as follows:

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

(1) "Commission" means the utilities and transportation commission.

(2) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed

under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

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

(5) "Electric utility" means a consumer-owned or investor-owned utility.

(6) "Full requirements customer" means an electric utility that relies on the Bonneville power administration for all power needed to supply its total load requirement other than that served by nondispatchable generating resources totaling no more than six megawatts or renewable resources.

(7) "Governing body" means the elected board of directors, city council, commissioners, or board of any consumer-owned utility.

(8) "High efficiency cogeneration" means the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output.

(9) "Integrated resource plan" means an analysis describing the mix of generating resources ~~(and)~~, conservation, methods, technologies, and resources to integrate renewable resources and, where applicable, address overgeneration events, and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers and that complies with the requirements specified in RCW 19.280.030(1).

(10) "Investor-owned utility" means a corporation owned by investors that meets the definition in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(11) "Lowest reasonable cost" means the lowest cost mix of generating resources and conservation and efficiency resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its ratepayers, public policies regarding resource preference adopted by Washington state or the federal government, and the cost of risks associated with environmental effects including emissions of carbon dioxide.

(12) "Plan" means either an "integrated resource plan" or a "resource plan."

(13) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) biomass energy utilizing animal waste, solid organic fuels from wood, forest, or field residues or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (g) by-products of pulping or wood manufacturing processes, including but not limited to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal power; or (i) gas from sewage treatment facilities.

(14) "Resource plan" means an assessment that estimates electricity loads and resources over a defined period of time and complies with the requirements in RCW 19.280.030(2).

(15) "Overgeneration event" means an event within an operating period of a balancing authority when the electricity supply, including generation from intermittent renewable resources, exceeds the demand for electricity for that utility's energy delivery obligations and when there is a negatively priced regional market.

**Sec. 3.** RCW 19.280.030 and 2011 c 180 s 305 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers shall develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of

the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources. Such assessment may include, as appropriate, high efficiency cogeneration, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) The integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events, at the lowest reasonable cost and risk to the utility and its ratepayers; and

~~((f))~~ (g) A short-term plan identifying the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; and

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources ~~((i))~~; (ii) methods, commercially available technologies, or facilities for integrating renewable resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made.

(3) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(4) Resource plans developed under this section must be updated on a regular basis, at a minimum on intervals of two years.

(5) Plans shall not be a basis to bring legal action against electric utilities.

(6) Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

**Sec. 4.** RCW 19.280.060 and 2006 c 195 s 6 are each amended to read as follows:

The department shall review the plans of consumer-owned utilities and investor-owned utilities, and data available from other state, regional, and national sources, and prepare an electronic report to the legislature aggregating the data and assessing the overall adequacy of Washington's electricity supply. The report shall include a statewide summary of utility load forecasts, load/resource balance, and utility plans for the development of thermal generation, renewable resources, ~~((and))~~ conservation and efficiency resources, and an examination of assessment methods used by utilities to address

overgeneration events. The commission shall provide the department with data summarizing the plans of investor-owned utilities for use in the department's statewide summary. The department may submit its report within the biennial report required under RCW 43.21F.045."

On page 1, line 2 of the title, after "markets;" strike the remainder of the title and insert "and amending RCW 19.280.010, 19.280.020, 19.280.030, and 19.280.060."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1826 and advanced the bill as amended by the Senate to final passage.

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

Representatives Morris and Short spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1826, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1826, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 86; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Crouse, Dahlquist, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, Freeman, Goodman, Green, Habib, Haigh, Haler, Hansen, Hargrove, Harris, Hayes, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kirby, Klippert, Kochmar, Kretz, Kristiansen, Liias, Lytton, MacEwen, Magendanz, Maxwell, 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, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

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

Excused: Representatives DeBolt, Manweller and McCoy.

ENGROSSED HOUSE BILL NO. 1826, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 15, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1846 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.43.715 and 2012 c 87 s 13 are each amended to read as follows:

(1) Consistent with federal law, the commissioner, in consultation with the board and the health care authority, shall, by rule, select the largest small group plan in the state by enrollment as the benchmark plan for the individual and small group market for purposes of establishing the essential health benefits in Washington state under P.L. 111-148 of 2010, as amended.

(2) If the essential health benefits benchmark plan for the individual and small group market does not include all of the ten benefit categories specified by section 1302 of P.L. 111-148, as amended, the commissioner, in consultation with the board and the health care authority, shall, by rule, supplement the benchmark plan benefits as needed to meet the minimum requirements of section 1302.

(3) A health plan required to offer the essential health benefits, other than a health plan offered through the federal basic health program or medicaid, under P.L. 111-148 of 2010, as amended, may not be offered in the state unless the commissioner finds that it is substantially equal to the benchmark plan. When making this determination, the commissioner (~~must~~):

(a) Must ensure that the plan covers the ten essential health benefits categories specified in section 1302 of P.L. 111-148 of 2010, as amended; (~~and~~)

(b) May consider whether the health plan has a benefit design that would create a risk of biased selection based on health status and whether the health plan contains meaningful scope and level of benefits in each of the ten essential health benefit categories specified by section 1302 of P.L. 111-148 of 2010, as amended;

(c) Notwithstanding the foregoing, for benefit years beginning January 1, 2015, and only to the extent permitted by federal law and guidance, must establish by rule the review and approval requirements and procedures for pediatric oral services when offered in stand-alone dental plans in the nongrandfathered individual and small group markets outside of the exchange; and

(d) Unless prohibited by federal law and guidance, must allow health carriers to also offer pediatric oral services within the health benefit plan in the nongrandfathered individual and small group markets outside of the exchange.

(4) Beginning December 15, 2012, and every year thereafter, the commissioner shall submit to the legislature a list of state-mandated health benefits, the enforcement of which will result in federally imposed costs to the state related to the plans sold through the exchange because the benefits are not included in the essential health benefits designated under federal law. The list must include the anticipated costs to the state of each state-mandated health benefit on the list and any statutory changes needed if funds are not appropriated to defray the state costs for the listed mandate. The commissioner may enforce a mandate on the list for the entire market only if funds are appropriated in an omnibus appropriations act specifically to pay the state portion of the identified costs.

**Sec. 2.** RCW 48.46.243 and 2008 c 217 s 56 are each amended to read as follows:

(1) Subject to subsection (2) of this section, every contract between a health maintenance organization and its participating providers of health care services shall be in writing and shall set forth that in the event the health maintenance organization fails to pay for health care services as set forth in the agreement, the enrolled participant shall not be liable to the provider for any sums owed by the health maintenance organization. Every such contract shall provide that this requirement shall survive termination of the contract.

(2) The provisions of subsection (1) of this section shall not apply:

(a) To emergency care from a provider who is not a participating provider(,);

(b) \_\_\_\_\_ To \_\_\_\_\_ out-of-area \_\_\_\_\_ services;

(c) To the delivery of covered pediatric oral services that are

substantially equal to the essential health benefits benchmark plan; or(,)

(d) In exceptional situations approved in advance by the commissioner, if the health maintenance organization is unable to negotiate reasonable and cost-effective participating provider contracts.

(3)(a) Each participating provider contract form shall be filed with the commissioner fifteen days before it is used.

(b) Any contract form not affirmatively disapproved within fifteen days of filing shall be deemed approved, except that the commissioner may extend the approval period an additional fifteen days upon giving notice before the expiration of the initial fifteen-day period. The commissioner may approve such a contract form for immediate use at any time. Approval may be subsequently withdrawn for cause.

(c) Subject to the right of the health maintenance organization to demand and receive a hearing under chapters 48.04 and 34.05 RCW, the commissioner may disapprove such a contract form if it is in any respect in violation of this chapter or if it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.05 RCW.

(4) No participating provider, or insurance producer, trustee, or assignee thereof, may maintain an action against an enrolled participant to collect sums owed by the health maintenance organization.

**Sec. 3.** RCW 48.14.0201 and 2011 c 47 s 8 are each amended to read as follows:

(1) As used in this section, "taxpayer" means a health maintenance organization as defined in RCW 48.46.020, a health care service contractor as defined in (~~RCW 48.44.010~~) chapter 48.44 RCW, or a self-funded multiple employer welfare arrangement as defined in RCW 48.125.010.

(2) Each taxpayer must pay a tax on or before the first day of March of each year to the state treasurer through the insurance commissioner's office. The tax must be equal to the total amount of all premiums and prepayments for health care services collected or received by the taxpayer under RCW 48.14.090 during the preceding calendar year multiplied by the rate of two percent. For tax purposes, the reporting of premiums and prepayments must be on a written basis or on a paid-for basis consistent with the basis required by the annual statement.

(3) Taxpayers must prepay their tax obligations under this section. The minimum amount of the prepayments is the percentages of the taxpayer's tax obligation for the preceding calendar year recomputed using the rate in effect for the current year. For the prepayment of taxes due during the first calendar year, the minimum amount of the prepayments is the percentages of the taxpayer's tax obligation that would have been due had the tax been in effect during the previous calendar year. The tax prepayments must be paid to the state treasurer through the commissioner's office by the due dates and in the following amounts:

(a) On or before June 15, forty-five percent;

(b) On or before September 15, twenty-five percent;

(c) On or before December 15, twenty-five percent.

(4) For good cause demonstrated in writing, the commissioner may approve an amount smaller than the preceding calendar year's tax obligation as recomputed for calculating the health maintenance organization's, health care service contractor's, self-funded multiple employer welfare arrangement's, or certified health plan's prepayment obligations for the current tax year.

(5) Moneys collected under this section are deposited in the general fund.

(6) The taxes imposed in this section do not apply to:

(a) Amounts received by any taxpayer from the United States or any instrumentality thereof as prepayments for health care services

provided under Title XVIII (medicare) of the federal social security act.

(b) Amounts received by any taxpayer from the state of Washington as prepayments for health care services provided under:

(i) The medical care services program as provided in RCW 74.09.035; or

(ii) The Washington basic health plan on behalf of subsidized enrollees as provided in chapter 70.47 RCW.

(c) Amounts received by any health care service contractor~~(s)~~ as defined in ~~((RCW 48.44.010))~~ chapter 48.44 RCW, or any health maintenance organization as defined in chapter 48.46 RCW, as prepayments for health care services included within the definition of practice of dentistry under RCW 18.32.020, except amounts received for pediatric oral services that qualify as coverage for the minimum essential coverage requirement under P.L. 111-148 (2010), as amended.

(d) Participant contributions to self-funded multiple employer welfare arrangements that are not taxable in this state.

(7) Beginning January 1, 2000, the state preempts the field of imposing excise or privilege taxes upon taxpayers and no county, city, town, or other municipal subdivision has the right to impose any such taxes upon such taxpayers. This subsection is limited to premiums and payments for health benefit plans offered by health care service contractors under chapter 48.44 RCW, health maintenance organizations under chapter 48.46 RCW, and self-funded multiple employer welfare arrangements as defined in RCW 48.125.010. The preemption authorized by this subsection must not impair the ability of a county, city, town, or other municipal subdivision to impose excise or privilege taxes upon the health care services directly delivered by the employees of a health maintenance organization under chapter 48.46 RCW.

(8)(a) The taxes imposed by this section apply to a self-funded multiple employer welfare arrangement only in the event that they are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the commissioner must initially request an advisory opinion from the United States department of labor or obtain a declaratory ruling from a federal court on the legality of imposing state premium taxes on these arrangements. Once the legality of the taxes has been determined, the multiple employer welfare arrangement certified by the insurance commissioner must begin payment of these taxes.

(b) If there has not been a final determination of the legality of these taxes, then beginning on the earlier of (i) the date the fourth multiple employer welfare arrangement has been certified by the insurance commissioner, or (ii) April 1, 2006, the arrangement must deposit the taxes imposed by this section into an interest bearing escrow account maintained by the arrangement. Upon a final determination that the taxes are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the interest bearing escrow account must be transferred to the state treasurer.

(9) The effect of transferring contracts for health care services from one taxpayer to another taxpayer is to transfer the tax prepayment obligation with respect to the contracts.

(10) On or before June 1st of each year, the commissioner must notify each taxpayer required to make prepayments in that year of the amount of each prepayment and must provide remittance forms to be used by the taxpayer. However, a taxpayer's responsibility to make prepayments is not affected by failure of the commissioner to send, or the taxpayer to receive, the notice or forms.

**Sec. 4.** RCW 48.14.020 and 2009 c 161 s 3 are each amended to read as follows:

(1) Subject to other provisions of this chapter, each authorized insurer except title insurers shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax on premiums. Except as provided in subsection ~~((2))~~ (3) of

this section, such tax shall be in the amount of two percent of all premiums, excluding amounts returned to or the amount of reductions in premiums allowed to holders of industrial life policies for payment of premiums directly to an office of the insurer, collected or received by the insurer under RCW 48.14.090 during the preceding calendar year other than ocean marine and foreign trade insurances, after deducting premiums paid to policyholders as returned premiums, upon risks or property resident, situated, or to be performed in this state. For tax purposes, the reporting of premiums shall be on a written basis or on a paid-for basis consistent with the basis required by the annual statement. For the purposes of this section the consideration received by an insurer for the granting of an annuity shall not be deemed to be a premium.

(2) The taxes imposed in this section do not apply to amounts received by any life and disability insurer for health care services included within the definition of practice of dentistry under RCW 18.32.020 except amounts received for pediatric oral services that qualify as coverage for the minimum essential coverage requirement under P.L. 111-148 (2010), as amended.

(3) In the case of insurers which require the payment by their policyholders at the inception of their policies of the entire premium thereon in the form of premiums or premium deposits which are the same in amount, based on the character of the risks, regardless of the length of term for which such policies are written, such tax shall be in the amount of two percent of the gross amount of such premiums and premium deposits upon policies on risks resident, located, or to be performed in this state, in force as of the thirty-first day of December next preceding, less the unused or unabsorbed portion of such premiums and premium deposits computed at the average rate thereof actually paid or credited to policyholders or applied in part payment of any renewal premiums or premium deposits on one-year policies expiring during such year.

~~((3))~~ (4) Each authorized insurer shall with respect to all ocean marine and foreign trade insurance contracts written within this state during the preceding calendar year, on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax of ninety-five one-hundredths of one percent on its gross underwriting profit. Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such ocean marine and foreign trade insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amounts refunded, or paid as participation dividends, by such insurers to the holders of such contracts.

~~((4))~~ (5) The state does hereby preempt the field of imposing excise or privilege taxes upon insurers or their appointed insurance producers, other than title insurers, and no county, city, town or other municipal subdivision shall have the right to impose any such taxes upon such insurers or these insurance producers.

~~((5))~~ (6) If an authorized insurer collects or receives any such premiums on account of policies in force in this state which were originally issued by another insurer and which other insurer is not authorized to transact insurance in this state on its own account, such collecting insurer shall be liable for and shall pay the tax on such premiums."

On page 1, line 1 of the title, after "coverage;" strike the remainder of the title and insert "and amending RCW 48.43.715, 48.46.243, 48.14.0201, and 48.14.020."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1846 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1846, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1846, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1846, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 15, 2013

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1883 with the following amendment:

On page 35, beginning on line 14, after "required to be" strike "licensed under chapter 46.16 RCW" and insert "registered under chapter 46.16A RCW"

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1883 and advanced the bill as amended by the Senate to final passage.

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

Representatives Fitzgibbon and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1883, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1883, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 93; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, Nealey, O'Ban, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, 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: Representatives Overstreet and Scott.

Excused: Representatives DeBolt, Manweller and McCoy.

SUBSTITUTE HOUSE BILL NO. 1883, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 17, 2013

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1968 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.210 and 2006 c 265 s 302 are each amended to read as follows:

The chief of the Washington state patrol, through the director of fire protection, shall have the power and it shall be his or her duty:

(1) In consultation with the director and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt recognized minimum standard requirements pertaining to each category of agency established pursuant to this chapter necessary to protect all persons residing therein from fire hazards;

(2) To adopt licensing minimum standard requirements to allow children who attend classes in a school building during school hours to remain in the same building to participate in before-school or after-school programs and to allow participation in such before-school and after-school programs by children who attend other schools and are transported to attend such before-school and after-school programs;

(3) To make or cause to be made such inspections and investigations of agencies as he or she deems necessary;

((3)) (4) To make a periodic review of requirements under RCW 43.215.200(5) and to adopt necessary changes after consultation as required in subsection (1) of this section;

((4)) (5) To issue to applicants for licenses under this chapter who comply with the requirements, a certificate of compliance, a

copy of which shall be presented to the department before a license shall be issued, except that an initial license may be issued as provided in RCW 43.215.280.

**NEW SECTION. Sec. 2.** The chief of the Washington state patrol, through the director of fire protection, shall have the power and it shall be his or her duty to adopt licensing minimum standard requirements for before-school and after-school programs in existing buildings approved by the state fire marshal."

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 43.215.210; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1968 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1968, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1968, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bergquist, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, 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, Maxwell, 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: Representatives DeBolt, Manweller and McCoy.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1968, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

#### SECOND READING

**HOUSE BILL NO. 2024, by Representatives Pedersen, Rodne, Jinkins, Klippert, Orwall, O'Ban, Wylie, Ormsby,**

**Kirby, Buys, Roberts, Nealey, Goodman, Hansen, Kagi, Hunter, Ryu, Appleton and Manweller**

**Concerning legal proceedings by the attorney general on behalf of state officers.**

The bill was read the second time.

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

Representatives Pedersen and Rodne spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 2024.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2024, and the bill passed the House by the following vote: Yeas, 85; Nays, 10; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Bergquist, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dunshee, Fagan, Farrell, Fey, Fitzgibbon, 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, Maxwell, Moeller, Morrell, Morris, Moscoso, O'Ban, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pedersen, Pettigrew, Pike, Reykdal, Riccelli, Roberts, Rodne, Ross, Ryu, Santos, Sawyer, Schmick, Scott, Seaquist, Shea, Short, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Taylor, Tharinger, Vick, Walsh, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Appleton, Blake, Freeman, Nealey, Pollet, Sells, Takko, Upthegrove, Van De Wege and Warnick.

Excused: Representatives DeBolt, Manweller and McCoy.

HOUSE BILL NO. 2024, having received the necessary constitutional majority, was declared passed.

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

The Speaker assumed the chair.

#### SIGNED BY THE SPEAKER

The Speaker signed the following bills:

SUBSTITUTE HOUSE BILL NO. 1115  
SUBSTITUTE HOUSE BILL NO. 1116  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1134  
SUBSTITUTE HOUSE BILL NO. 1216  
HOUSE BILL NO. 1277  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1291  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1383  
ENGROSSED HOUSE BILL NO. 1394  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1432  
SUBSTITUTE HOUSE BILL NO. 1541  
HOUSE BILL NO. 1547

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1652  
ENGROSSED HOUSE BILL NO. 1808

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

The Speaker called upon Representative Moeller to preside.

There being no objection, the House adjourned until 1:30 p.m.,  
April 23, 2013, the 100th Day of the Regular Session.

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Final Passage .....	19
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1009-S	
Messages .....	1
1012-S	
Messages .....	1
1021-S	
Messages .....	1
1036	
Messages .....	1
1045	
Messages .....	1
1065	
Messages .....	1
1068-S	
Final Passage .....	20
Other Action .....	20
Messages .....	19
1071-S	
Messages .....	1
1075-S	
Messages .....	1
1076-S	
Final Passage .....	20
Other Action .....	20
Messages .....	20
1093-S	
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1114-S2	
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1116-S	
Speaker Signed .....	75
1130-S	
Other Action .....	4
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1144-S	
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1149	
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1178	
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1180-S	
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1216-S	
Speaker Signed .....	75
1218	
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1247-S	
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1256-S	
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1261-S	
Messages .....	1
1265-S	
Final Passage .....	31
Other Action .....	31
Messages .....	31
1270-S	
Messages .....	1
1271-S	
Messages .....	1
1277	
Speaker Signed .....	75
1284-S	
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Other Action .....	34
Messages .....	31
1291-S	
Speaker Signed .....	75
1330	
Messages .....	1
1334-S	
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Final Passage .....	37
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1381-S	
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1383-S	
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Speaker Signed .....	75
1397-S	
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1403-S	
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1447	
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1456-S	
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1468	
Messages .....	1
1471	
Other Action .....	5
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1472-S	
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Final Passage .....	45
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1480-S	
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Other Action .....	45
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1498-S	
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1499-S	
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1519-S	
Final Passage .....	48
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Final Passage .....	49
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1547	
Speaker Signed .....	75
1552-S	
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1576	
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1629-S  
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Other Action ..... 52  
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1644  
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1645  
Final Passage ..... 53  
Other Action ..... 53  
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1652-S  
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1717-S  
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1723-S2  
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1774-S  
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1868-S	
Messages .....	1
1883-S	
Final Passage .....	74
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5161	
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5197-S2	
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5329-S2	
Messages .....	2
5355	
Messages .....	2
5359	
Messages .....	2
5434-S	
Messages .....	2
5565-S	
Messages .....	2
5591-S	
Messages .....	2
5785-S	
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5809	
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