

ONE-HUNDRED SECOND DAY

MORNING SESSION

Senate Chamber, Olympia, Thursday, April 19, 2007

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Kohl-Welles.

The Sergeant at Arms Color Guard consisting of Pages Hanna Banks and Rachel Cook, presented the Colors. Pastor Dennis McKown of the Wind Works Fellowship of the Seventh Day Adventist Church offered the prayer.

MOTION

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

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

April 18, 2007

SB 6156 Prime Sponsor, Prentice: Relating to state government. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6156 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Hatfield, Keiser, Kohl-Welles, Oemig, Rasmussen, Roach, Rockefeller and Schoesler

MINORITY recommendation: Without recommendation. Signed by Senators Brandland, Carrell, Parlette and Zarelli

April 18, 2007

SB 6157 Prime Sponsor, Prentice: Relating to human services. Revised for 1st Substitute: Changing provisions affecting offenders who are leaving confinement. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6157 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Tom and Zarelli

April 18, 2007

SB 6158 Prime Sponsor, Prentice: Relating to human services. Revised for 1st Substitute: Concerning the biennial rebasing of nursing facility medicaid payment rates. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6158 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Tom and Zarelli

April 18, 2007

ESHB 1179 Prime Sponsor, Committee on Appropriations: Allowing part-time students at postsecondary institutions to qualify for a state need grant. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Tom and Zarelli

Passed to Committee on Rules for second reading.

April 18, 2007

EHB 1902 Prime Sponsor, Grant: Concerning the sales and use taxation of repairs to farm machinery and equipment. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Brandland, Carrell, Hatfield, Hewitt, Hobbs, Honeyford, Parlette, Rasmussen, Roach, Schoesler and Zarelli

MINORITY recommendation: Do not pass. Signed by Senators Fairley and Tom

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, the rules were suspended and all measures listed on the Standing Committee Report were placed on the second reading calendar.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGES FROM THE STATE OFFICES

April 13, 2007

STATE OF WASHINGTON

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
Secretary of the Senate  
P.O. Box 40482

Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Washington Citizen's Commission on Salaries for Elected Officials Audit Report. This report is mandated under RCW 43.09.310.

If you have any questions about the report, please call 360-902-0370.

Sincerely,

Brian Sonntag, State Auditor  
The Washington Citizen's Commission on Salaries for Elected Officials Audit Report is on file in the Office of the Secretary of the Senate.

MESSAGES FROM THE STATE OFFICES

April 9, 2007

STATE OF WASHINGTON

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Western Washington University Audit Report. This report is mandated under RCW 43.09.310.

If you have any questions about the report, please call 360-902-0370.

Sincerely,

Brian Sonntag, State Auditor

The Western Washington University Audit Report is on file in the Office of the Secretary of the Senate.

MESSAGES FROM THE STATE OFFICES

April 9, 2007

STATE OF WASHINGTON

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Washington State Alfalfa Seed Commission.

If you have any questions about the report, please call 360-902-0370.

Sincerely,

Brian Sonntag, State Auditor

The Washington State Alfalfa Seed Commission is on file in the Office of the Secretary of the Senate.

MESSAGES FROM THE STATE OFFICES

April 9, 2007

STATE OF WASHINGTON

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Municipal Research Council Audit Report. This report is mandated under RCW 43.09.310.

If you have any questions about the report, please call 360-902-0370.

Sincerely,

Brian Sonntag, State Auditor

The Municipal Research Council Audit Report is on file in the Office of the Secretary of the Senate.

MESSAGES FROM THE STATE OFFICES

April 9, 2007

STATE OF WASHINGTON

Olympia, Washington 98504-5000

Mr. Thomas Hoemann  
Secretary of the Senate  
P.O. Box 40482  
Olympia, Washington 98504-0482

Dear Mr. Hoemann:

Enclosed is Seattle Community Colleges Audit Report. This report is mandated under RCW 43.09.310.

If you have any questions about the report, please call 360-902-0370.

Sincerely,

Brian Sonntag, State Auditor, Secretary

The Seattle Community Colleges Audit Report is on file in the Office of the Secretary of the Senate.

MOTION

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

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House has passed the following bills:  
SUBSTITUTE HOUSE BILL NO. 1098,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1512,  
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The Speaker has signed:  
ENGROSSED SENATE BILL NO. 5063,  
SUBSTITUTE SENATE BILL NO. 5074,  
SECOND SUBSTITUTE SENATE BILL NO. 5092,  
SUBSTITUTE SENATE BILL NO. 5202,  
SUBSTITUTE SENATE BILL NO. 5227,  
SUBSTITUTE SENATE BILL NO. 5248,  
SUBSTITUTE SENATE BILL NO. 5320,  
SUBSTITUTE SENATE BILL NO. 5435,  
SENATE BILL NO. 5551,  
SENATE BILL NO. 5552,  
SENATE BILL NO. 5572,  
SUBSTITUTE SENATE BILL NO. 5634,  
SUBSTITUTE SENATE BILL NO. 5639,  
SUBSTITUTE SENATE BILL NO. 5647,  
SECOND SUBSTITUTE SENATE BILL NO. 5652,  
SUBSTITUTE SENATE BILL NO. 5653  
ENGROSSED SENATE BILL NO. 5669,  
SUBSTITUTE SENATE BILL NO. 5674,  
ENGROSSED SENATE BILL NO. 5675,  
SUBSTITUTE SENATE BILL NO. 5702,  
SUBSTITUTE SENATE BILL NO. 5718,  
SUBSTITUTE SENATE BILL NO. 5721,  
SUBSTITUTE SENATE BILL NO. 5731,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5770,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5774,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5788,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 5828,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5836,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 5843,

ONE-HUNDRED SECOND DAY, APRIL 19, 2007  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5859,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5862,  
 SUBSTITUTE SENATE BILL NO. 5881,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5894,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5915,  
 SENATE BILL NO. 5926,  
 SUBSTITUTE SENATE BILL NO. 5937,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5958,  
 SUBSTITUTE SENATE BILL NO. 5987,  
 SECOND SUBSTITUTE SENATE BILL NO. 5995,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6001,  
 SECOND SUBSTITUTE SENATE BILL NO. 6016,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6099,  
 SUBSTITUTE SENATE BILL NO. 6100,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6117,  
 SENATE BILL NO. 6119,  
 ENGROSSED SENATE BILL NO. 6128,  
 SUBSTITUTE SENATE JOINT MEMORIAL NO. 8011,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The Speaker has signed:  
 ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1001,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1008,  
 SUBSTITUTE HOUSE BILL NO. 1037,  
 HOUSE BILL NO. 1038,  
 SUBSTITUTE HOUSE BILL NO. 1079,  
 SUBSTITUTE HOUSE BILL NO. 1140,  
 ENGROSSED HOUSE BILL NO. 1214,  
 HOUSE BILL NO. 1220,  
 SUBSTITUTE HOUSE BILL NO. 1255,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1260,  
 ENGROSSED HOUSE BILL NO. 1413,  
 HOUSE BILL NO. 1449,  
 HOUSE BILL NO. 1476,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1506,  
 ENGROSSED HOUSE BILL NO. 1525,  
 SUBSTITUTE HOUSE BILL NO. 1651,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1656,  
 SUBSTITUTE HOUSE BILL NO. 1679,  
 HOUSE BILL NO. 1722,  
 SUBSTITUTE HOUSE BILL NO. 1777,  
 SUBSTITUTE HOUSE BILL NO. 1805,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1811,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1906,  
 HOUSE BILL NO. 1949,  
 SUBSTITUTE HOUSE BILL NO. 1988,  
 HOUSE BILL NO. 2004,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2055,  
 SUBSTITUTE HOUSE BILL NO. 2115,  
 SUBSTITUTE HOUSE BILL NO. 2118,  
 SUBSTITUTE HOUSE BILL NO. 2129,  
 HOUSE BILL NO. 2135,  
 SUBSTITUTE HOUSE BILL NO. 2209,  
 HOUSE BILL NO. 2240,  
 HOUSE BILL NO. 2357,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

INTRODUCTION OF SPECIAL GUESTS

2007 REGULAR SESSION

The President welcomed and introduced the Shifty Sailors of Whidbey Island who performed at the bar of the Senate in commemoration of the previous days Senate Resolution No. 8689.

REPLY BY THE PRESIDENT

President Owen: "Senator Mary Margaret Haugen, the President can't help but notice but there be no wenches in the group."

PERSONAL PRIVILEGE

Senator Eide: "Well, I would like to thank the good Senator from the Tenth District for bringing down the Shifty Sailors. What a pleasant delight, and I noticed that the good Senator from District Twenty-Two was actually singing along. I don't know if anyone else noticed that but I sure did. I was hoping that you were mentioning your CD because I'd love to purchase one of them. I just wanted to say that this was fun. Thank you Senator Haugen for bringing them down."

REMARKS BY THE PRESIDENT

President Owen: "The President would also like to note that Vernon and Carl Olson, who are in the group, their father who was the Sergeant at Arms in 1949, Mr. George Olson, for the Senate."

PERSONAL PRIVILEGE

Senator Haugen: "Well, I've often told this group I have the beautiful district in the state and some of the finest artist and now you see I have the finest singing group. This is an outstanding group of men who really do give of themselves to not only provide the pleasure that we've all experienced but also to provide experiences for young people. I think it's important to point at times, particularly after session like this, that we have a little time to stop and think about how music does effect our soles. You know, actually the maritime music actually started because the men on the ships were working hard and by singing it helped them. I think that this few moments that we've had here this morning will help us finish the job we have to do and we will return home safely to our shores. Mr. President, I might want to point out we Mike Murphy, our State Treasurer-who I like to think is our sailor in the process-I think he's had his sailing ship for twenty-eight years, something like that. He's going to go sailing off pretty soon. He might want to go with these guys. Mr. President, I think maybe next year we ought to have a state shanty song because this year we did the Washington tall ship as our state tall ship. Maybe we ought to have a shanty song that can be sang on that ship as she sails around the world representing us. Thank you very much, I appreciate this opportunity to share a bit of Whidbey Island with you."

REMARKS BY THE PRESIDENT

President Owen: "Thank you Senator for bringing the group to our attention. Thank you gentlemen, excellent."

MOTION

At 10:26 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:42 a.m. by President Owen.

ONE-HUNDRED SECOND DAY, APRIL 19, 2007  
MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1179, by House Committee on Appropriations (originally sponsored by Representatives Hasegawa, Jarrett, Sells, Roberts, Anderson, Green, Sommers, Kenney, Wallace, Buri, Appleton, Hudgins, Kagi, Ormsby, McDonald, Conway, Wood, Santos, Schual-Berke, Simpson, Lantz, Haigh and Morrell)

Allowing part-time students at postsecondary institutions to qualify for a state need grant.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.92.080 and 2004 c 275 s 39 are each amended to read as follows:

For a student to be eligible for a state need grant a student must:

(1) Be a "needy student" or "disadvantaged student" as determined by the board in accordance with RCW 28B.92.030 (3) and (4).

(2) Have been domiciled within the state of Washington for at least one year.

(3) Be enrolled or accepted for enrollment on at least a half-time basis at an institution of higher education in Washington as defined in RCW 28B.92.030(1).

(4) Until June 30, 2011, to the extent funds are specifically appropriated for this purpose, and subject to any terms and conditions specified in the omnibus appropriations act, be enrolled or accepted for enrollment for at least three quarter credits or the equivalent semester credits at an institution of higher education in Washington as defined in RCW 28B.92.030(1).

(5) Have complied with all the rules and regulations adopted by the board for the administration of this chapter.

**Sec. 2.** RCW 28B.92.060 and 2005 c 93 s 3 are each amended to read as follows:

In awarding need grants, the board shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the board, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The board shall annually select the financial aid award recipients from among Washington residents applying for student financial aid who have been ranked according to:

(a) Financial need as determined by the amount of the family contribution; and

(b) Other considerations, such as whether the student is a former foster youth.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until disbursed, except that eligible former foster youth shall be assured receipt of a grant.

(3) A student shall be eligible to receive a state need grant for up to five years, or the credit or clock hour equivalent of five years, or up to one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Qualifications for renewal

2007 REGULAR SESSION

will include maintaining satisfactory academic progress toward completion of an eligible program as determined by the board. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.92.070.

(4) In computing financial need, the board shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions. Any child support payments received by students who are parents attending less than half-time shall not be used in computing financial need.

(5)(a) A student who is enrolled in three to six credit-bearing quarter credits, or the equivalent semester credits, may receive a grant for up to one academic year before beginning a program that leads to a degree or certificate.

(b) An eligible student enrolled on a less-than-full-time basis shall receive a prorated portion of his or her state need grant for any academic period in which he or she is enrolled on a less-than-full-time basis, as long as funds are available.

(c) An institution of higher education may award a state need grant to an eligible student enrolled in three to six credit-bearing quarter credits, or the semester equivalent, on a provisional basis if:

(i) The student has not previously received a state need grant from that institution;

(ii) The student completes the required free application for federal student aid;

(iii) The institution has reviewed the student's financial condition, and the financial condition of the student's family if the student is a dependent student, and has determined that the student is likely eligible for a state need grant; and

(iv) The student has signed a document attesting to the fact that the financial information provided on the free application for federal student aid and any additional financial information provided directly to the institution is accurate and complete, and that the student agrees to repay the institution for the grant amount if the student submitted false or incomplete information.

(6) As used in this section, "former foster youth" means a person who is at least eighteen years of age, but not more than twenty-four years of age, who was a dependent of the department of social and health services at the time he or she attained the age of eighteen.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.92 RCW to read as follows:

Institutions of higher education are encouraged to review their policies and procedures regarding financial aid for students taking a less-than-half-time course load, and to implement policies and procedures providing students taking a less-than-half-time course load with the same access to institutional aid, including tuition waivers, as provided to students enrolled half time or more.

**Sec. 4.** RCW 28B.15.820 and 2004 c 275 s 66 are each amended to read as follows:

(1) Each institution of higher education, including technical colleges, shall deposit a minimum of three and one-half percent of revenues collected from tuition and services and activities fees in an institutional financial aid fund that is hereby created and which shall be held locally. Moneys in the fund shall be used only for the following purposes: (a) To make guaranteed long-term loans to eligible students as provided in subsections (3) through (8) of this section; (b) to make short-term loans as provided in subsection (9) of this section; or (c) to provide financial aid to needy students as provided in subsection (10) of this section.

(2) An "eligible student" for the purposes of subsections (3) through (8) and (10) of this section is a student registered for at least ~~(six)~~ three credit hours or the equivalent, who is eligible for resident tuition and fee rates as defined in RCW 28B.15.012 and 28B.15.013, and who is a "needy student" as defined in RCW 28B.92.030.

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

(3) The amount of the guaranteed long-term loans made under this section shall not exceed the demonstrated financial need of the student. Each institution shall establish loan terms and conditions which shall be consistent with the terms of the guaranteed loan program established by 20 U.S. Code Section 1071 et seq., as now or hereafter amended. All loans made shall be guaranteed by the Washington student loan guaranty association or its successor agency. Institutions are hereby granted full authority to operate as an eligible lender under the guaranteed loan program.

(4) Before approving a guaranteed long-term loan, each institution shall analyze the ability of the student to repay the loan based on factors which include, but are not limited to, the student's accumulated total education loan burdens and the employment opportunities and average starting salary characteristics of the student's chosen fields of study. The institution shall counsel the student on the advisability of acquiring additional debt, and on the availability of other forms of financial aid.

(5) Each institution is responsible for collection of guaranteed long-term loans made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Institutions shall cooperate with other lenders and the Washington student loan guaranty association, or its successor agency, in the coordinated collection of guaranteed loans, and shall assure that the guarantability of the loans is not violated. Collection and servicing of guaranteed long-term loans under this section shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency: PROVIDED, That institutions be permitted to perform such servicing if specifically recognized to do so by the Washington student loan guaranty association or its successor agency. Collection and servicing of guaranteed long-term loans made by community colleges under subsection (1) of this section shall be coordinated by the state board for community and technical colleges and shall be conducted under procedures adopted by the state board.

(6) Receipts from payment of interest or principal or any other subsidies to which institutions as lenders are entitled, that are paid by or on behalf of borrowers of funds under subsections (3) through (8) of this section, shall be deposited in each institution's financial aid fund and shall be used to cover the costs of making the guaranteed long-term loans under this section and maintaining necessary records and making collections under subsection (5) of this section: PROVIDED, That such costs shall not exceed five percent of aggregate outstanding loan principal. Institutions shall maintain accurate records of such costs, and all receipts beyond those necessary to pay such costs, shall be deposited in the institution's financial aid fund.

(7) The governing boards of the state universities, the regional universities, and The Evergreen State College, and the state board for community and technical colleges, on behalf of the community colleges and technical colleges, shall each adopt necessary rules and regulations to implement this section.

(8) First priority for any guaranteed long-term loans made under this section shall be directed toward students who would not normally have access to educational loans from private financial institutions in Washington state, and maximum use shall be made of secondary markets in the support of loan consolidation.

(9) Short-term loans, not to exceed one year, may be made from the institutional financial aid fund to students enrolled in the institution. No such loan shall be made to any student who is known by the institution to be in default or delinquent in the payment of any outstanding student loan. A short-term loan may be made only if the institution has ample evidence that the student has the capability of repaying the loan within the time frame specified by the institution for repayment.

(10) Any moneys deposited in the institutional financial aid fund that are not used in making long-term or short-term loans may be used by the institution for locally-administered financial aid programs for needy students, such as need-based institutional employment programs or need-based tuition and fee

scholarship or grant programs. These funds shall be used in addition to and not to replace institutional funds that would otherwise support these locally-administered financial aid programs. First priority in the use of these funds shall be given to needy students who have accumulated excessive educational loan burdens. An excessive educational loan burden is a burden that will be difficult to repay given employment opportunities and average starting salaries in the student's chosen fields of study. Second priority in the use of these funds shall be given to needy single parents, to assist these students with their educational expenses, including expenses associated with child care and transportation.

**NEW SECTION. Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1179.

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

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "grant," strike the remainder of the title and insert "amending RCW 28B.92.080, 28B.92.060, and 28B.15.820; adding a new section to chapter 28B.92 RCW; and creating a new section."

#### MOTION

On motion of Senator Shin, the rules were suspended, Engrossed Substitute House Bill No. 1179 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Shin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1179 as amended by the Senate.

#### MOTION

On motion of Senator Regala, Senators Kohl-Welles and Pridemore were excused.

#### PERSONAL PRIVILEGE

Senator Jacobsen: "Yes, I just want to point out Senator Kohl-Welles is in Washington D.C. because she received a national award and is presented by U.S. Senator by Robert, uh, Ted Kennedy and Reid, otherwise she'd want to be here today."

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1179 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkeley, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen,

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Kohl-Welles - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1179 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Oemig: “Mr. President, democracy is often easier to enjoy when it is to participate in and protect. We inherited a great democracy and those who shaped it were not perfect. It would be easier to point out their mistakes than to live up to their example. Our American tradition, our inherited tradition is to aim high and we’re bound to make mistakes. We’ve made plenty. History is filled with them, the Gulf of Tonkin, Iran-Contra, but it’s with action that we fix our mistakes. When people are honestly mistaken and they learn the truth they either to cease to be mistaken or cease to be honest. If we do not act to correct our mistakes, our children will inherit them. We cannot restore the lives lost in Iraq or the lost limbs or the lives shattered but we can act. Our Commander-in-Chief can be relieved of duty. The truth has surfaced. He abused our proud traditions and brought us torture, while telling us we don’t torture. He violated our proud traditions and spied on American citizens, while telling us we don’t spy and he made claims about aluminum tubes and yellow cake that the evidence did not support. The truth has surfaced, do we cease to be mistaken or do we cease to be honest. I would never trust this President with the life of my son. How can I trust him with the lives of my neighbors’ kids. How many more lives will this President sacrifice from Washington State? Six since he convened in January. For the soldiers that are going to die next month and next year to avert more death and to prevent handing out more Gold Stars to mothers. We must end this war. The Commander-in-Chief must be relieved of duty. The framers of our constitution gave us the tools of impeachment and conviction. We must not be afraid to use these tools.”

#### REMARKS BY THE PRESIDENT

President Owen: “The President will remind the gallery that we’re very pleased and privileged to have you with us today to observe this process but, we have very strict rules of decorum and protocol in this chamber. We would ask that you respect those rules and protocol and decorum in this chamber and not respond to the remarks made by the people who are speaking. Thank you very much.”

#### PERSONAL PRIVILEGE

Senator Swecker: “Thank you Mr. President. We find ourselves on the floor of the Senate today hearing speeches about war and peace and perhaps of even impeaching a President. That’s something new for me and probably even new for those who have been here for a long, long time. The reason it’s new is because that’s not what we were elected to do. I’m not saying these issues aren’t important. They are, I know that first hand. As many of you probably know, I’m a veteran of the Vietnam War. While I was there I earned the Purple Heart, the Bronze Star and more than twenty air medals. As a veteran, I can tell you that people decided to volunteer to serve their country, they do this for variety of reasons, patriotism, educational opportunities, family tradition, belief in a cause but once they get into combat that all goes away and they share one thing in common. The desire to see the war end. They don’t like the isolation, the loneliness, the crummy food and, especially, getting shot at. But what keeps them engaged and what makes

many of them sign up to go back? It’s their deep desire for freedom on the part of the people they are there to serve. The desire for freedom for them outweighs all else. There’s no better example of this than Valley Forge. Think about the despair, the disease, the death that the Constitutional Army suffered during that winter of destiny for this nation. Yet, it was the desire for freedom that caused them to endure and go forward. I’ve been in combat and I’ve seen the eyes of the people that I was there to help. You can’t turn away. Their faces stay with you. You see the suffering and you realize you can help them and help the people back home. We all want peace but peace at the price of freedom is failure. That’s what I believe and whether it’s our policy as a nation is something that we do need to decide but the debate on this issue should not be occurring in the State Legislature. It should, Mr. President and is occurring in Congress. These are issues of foreign policy. This is an area outside the jurisdiction of this body. People in our district did not elect us to solve national problems. They elected us to solve the unique problems and challenges facing Washington State. This year the Senate Republicans have been talking about a symbolic women named ‘Betuc.’ Budget, Education, Transportation, Health Care and Crime, those are the issues that are important to her and those are the issues that this body should be dealing with. Solving the problems of this state and local issues is a commitment we must keep. We all understand that people fill strongly about these issues but let’s focus on the things we were elected to do and leave the matters of national security up to our colleagues in the other Washington. Thank you Mr. President.”

#### REPLY BY THE PRESIDENT

President Owen: “Senator Kline, before you state your personal privilege, the President would like to remind the members of a couple of things. One is that a point of personal privilege is not a place where you may debate issues. It a place where you may express yourself on issues that are personally and matters unique and pertinent to that Senator. Because the President believes that this is an issue that is very personal to several members of this body, he’s exercising some discretion to allowing for these presentations to be made, but please recognize this is not a point for you to debate an issue and you are also limited to the three minute rule that has been in effect for the remainder of the session.”

#### PERSONAL PRIVILEGE

Senator Kline: “Thank you Mr. President. I’d like to respond to both of the recent speakers.....”

#### REPLY BY THE PRESIDENT

President Owen: “Senator Kline, the President would remind you that this is not a point for you to respond to the previous speakers.”

#### PERSONAL PRIVILEGE

Senator Kline: “I’d like to express my own feelings of the issue currently before us. Some forty years ago, I was a young student, I took part in anti-war demonstrations of a member of a group called Students for Democratic Society. We engaged in a very robust, public debate about a matter that was the most important our country was facing, the war in Vietnam. Still to this day, there’s a anti-war poster that I resurrected from my basement, after some forty years, about the march of October 1967 that’s on my office wall now. Little old, a little tattered, a little musty but unfortunately still relevant. Like so many naive twenty-year olds I thought that we had learned a lesson and that

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

we would remember the lesson. Not to engage in foreign wars that are not in our national interest. Not to spend so much of our national treasure, the lives of our youth and ultimately our national dignity on something that had no real interest to United States. I thought the lesson would be learned. I had certainly learned it. I've been very dismayed in these last four years at the slow process of forgetting, of an administration that in secrecy and with an intent, I believe to deceive large numbers of people, played upon popular fears of weapons of mass destruction of biological or nuclear weapons that could be used and took the attack on this country as the excuse to launch a war, not the war in Afghanistan, which was a very legitimate response, but a diversion of our troops to a country which they had no reason to be Iraq. I thought we had remembered and yet it's the popular response, not blaming this administration or our brothers and sisters in Congress but ourselves. It is we who vote. It is our national fear that it can be so easily played upon. It is our acquiescence to this administration. There will always be evil. It is our fault for tolerating so much and saying so little."

## REMARKS BY THE PRESIDENT

President Owen: "Senator Kline, your time is up."

## MOTION

At 12:03 p.m., on motion of Senator Eide, the Senate was declared to be recessed until 1:30 p.m..

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

## MOTION

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

## MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House insists on its position regarding the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5930 and asks the Senate for a conference thereon. Speaker has appointed the following members as Conferees:

Representatives Cody, Morrell, and Hinkle and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

## MOTION

On motion of Senator Keiser, the Senate granted the request of the House for a conference on Engrossed Second Substitute Senate Bill No. 5930 and the Senate amendment(s) thereto.

## APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Second Substitute Senate Bill No. 5930 and the House amendment(s) there to: Senators Franklin, Keiser and Pflug.

## MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

## MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1359 and asks Senate to recede therefrom. and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

## MOTION

Senator Weinstein moved that the Senate refuse to recede in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1359 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Weinstein that the Senate refuse to recede in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1359.

The motion by Senator Weinstein carried and the Senate refused to recede in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1359 and requested of the House a conference thereon.

## APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Second Substitute House Bill No. 1359 and the House amendment(s) thereto: Senators Brandland, Fraser and Weinstein.

## MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

## MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1092 and asks the Senate for a conference thereon. Speaker has appointed the following members as Conferees:

Representatives Fromhold, Ormsby and McDonald and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

## MOTION

On motion of Senator Fraser, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 1092 and the Senate amendment(s) thereto.

## APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 1092 and the House amendment(s) there to: Senators Brandland, Fraser and Regala.

## MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

## MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1138,  
HOUSE BILL NO. 1450,  
HOUSE BILL NO. 1598,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1833,  
SUBSTITUTE HOUSE BILL NO. 1965,  
ENGROSSED HOUSE BILL NO. 2070,  
SUBSTITUTE SENATE BILL NO. 6141,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

## SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1001,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1008,  
SUBSTITUTE HOUSE BILL NO. 1037,  
HOUSE BILL NO. 1038,  
SUBSTITUTE HOUSE BILL NO. 1079,  
SUBSTITUTE HOUSE BILL NO. 1140,  
ENGROSSED HOUSE BILL NO. 1214,  
HOUSE BILL NO. 1220,  
SUBSTITUTE HOUSE BILL NO. 1255,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1260,  
ENGROSSED HOUSE BILL NO. 1413,  
HOUSE BILL NO. 1449,  
HOUSE BILL NO. 1476,  
SECOND SUBSTITUTE HOUSE BILL NO. 1506,  
ENGROSSED HOUSE BILL NO. 1525,  
SUBSTITUTE HOUSE BILL NO. 1651,  
SECOND SUBSTITUTE HOUSE BILL NO. 1656,  
SUBSTITUTE HOUSE BILL NO. 1679,  
HOUSE BILL NO. 1722,  
SUBSTITUTE HOUSE BILL NO. 1777,  
SUBSTITUTE HOUSE BILL NO. 1805,  
SECOND SUBSTITUTE HOUSE BILL NO. 1811,  
SECOND SUBSTITUTE HOUSE BILL NO. 1906,  
HOUSE BILL NO. 1949,  
SUBSTITUTE HOUSE BILL NO. 1988,  
HOUSE BILL NO. 2004,  
SECOND SUBSTITUTE HOUSE BILL NO. 2055,  
SUBSTITUTE HOUSE BILL NO. 2115,  
SUBSTITUTE HOUSE BILL NO. 2118,  
SUBSTITUTE HOUSE BILL NO. 2129,  
HOUSE BILL NO. 2135,  
SUBSTITUTE HOUSE BILL NO. 2209,  
HOUSE BILL NO. 2240,  
HOUSE BILL NO. 2357,

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

HOUSE BILL NO. 2395, by Representatives Fromhold, McDonald and Morrell

Regarding leasing and development rights on state lands.

The measure was read the second time.

## MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2395 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2395.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2395 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, Kline, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senator Jacobsen - 1

Excused: Senator Kohl-Welles - 1

HOUSE BILL NO. 2395, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Regala, Senators Brown, Jacobsen, McAuliffe and Tom were excused.

## SECOND READING

HOUSE BILL NO. 2396, by Representatives Fromhold and McDonald

Regarding investment of moneys in the permanent common school fund.

The measure was read the second time.

## MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2396 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2396.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2396 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller,



ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 45

SIGNED BY THE PRESIDENT

Excused: Senators Brown, Kohl-Welles, McAuliffe and Tom - 4

HOUSE BILL NO. 2396, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

HOUSE BILL NO. 1005,  
 SUBSTITUTE HOUSE BILL NO. 1029,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1050,  
 HOUSE BILL NO. 1065,  
 SUBSTITUTE HOUSE BILL NO. 1082,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1131,  
 HOUSE BILL NO. 1166,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1201,  
 ENGROSSED HOUSE BILL NO. 1217  
 HOUSE BILL NO. 1224,  
 SUBSTITUTE HOUSE BILL NO. 1233,  
 SUBSTITUTE HOUSE BILL NO. 1244,  
 SUBSTITUTE HOUSE BILL NO. 1259,  
 SUBSTITUTE HOUSE BILL NO. 1267,  
 SUBSTITUTE HOUSE BILL NO. 1276,  
 SUBSTITUTE HOUSE BILL NO. 1287,  
 HOUSE BILL NO. 1293,  
 SUBSTITUTE HOUSE BILL NO. 1298,  
 SUBSTITUTE HOUSE BILL NO. 1304,  
 SUBSTITUTE HOUSE BILL NO. 1319,  
 SUBSTITUTE HOUSE BILL NO. 1328,  
 HOUSE BILL NO. 1371,  
 SUBSTITUTE HOUSE BILL NO. 1396,  
 SUBSTITUTE HOUSE BILL NO. 1397,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1401,  
 SUBSTITUTE HOUSE BILL NO. 1407,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1414,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1422,  
 HOUSE BILL NO. 1443,  
 SUBSTITUTE HOUSE BILL NO. 1445,  
 HOUSE BILL NO. 1457,  
 HOUSE BILL NO. 1505,  
 HOUSE BILL NO. 1520,  
 HOUSE BILL NO. 1543,  
 SUBSTITUTE HOUSE BILL NO. 1583,  
 HOUSE BILL NO. 1592,  
 HOUSE BILL NO. 1599,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1636,  
 SUBSTITUTE HOUSE BILL NO. 1646,  
 ENGROSSED HOUSE BILL NO. 1648,  
 SUBSTITUTE HOUSE BILL NO. 1654,  
 HOUSE BILL NO. 1671,  
 SUBSTITUTE HOUSE BILL NO. 1761,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1779,  
 SUBSTITUTE HOUSE BILL NO. 1802  
 HOUSE BILL NO. 1820  
 SUBSTITUTE HOUSE BILL NO. 1832,  
 SUBSTITUTE HOUSE BILL NO. 1837  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1883,  
 SUBSTITUTE HOUSE BILL NO. 1891,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1896,  
 ENGROSSED HOUSE BILL NO. 1898,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1910,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1922,  
 SUBSTITUTE HOUSE BILL NO. 1929,  
 HOUSE BILL NO. 1966,  
 SUBSTITUTE HOUSE BILL NO. 2007,  
 HOUSE BILL NO. 2034,  
 SUBSTITUTE HOUSE BILL NO. 2049,

The President has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1052,  
 HOUSE BILL NO. 1073,  
 HOUSE BILL NO. 1077,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1096,  
 SUBSTITUTE HOUSE BILL NO. 1099,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1106,  
 SUBSTITUTE HOUSE BILL NO. 1256,  
 HOUSE BILL NO. 1331,  
 HOUSE BILL NO. 1366,  
 SUBSTITUTE HOUSE BILL NO. 1409,  
 SUBSTITUTE HOUSE BILL NO. 1417,  
 HOUSE BILL NO. 1418,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1461,  
 SUBSTITUTE HOUSE BILL NO. 1472,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1488,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1569,  
 HOUSE BILL NO. 1644,  
 HOUSE BILL NO. 1859,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1916,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1980,  
 HOUSE BILL NO. 2079,  
 SUBSTITUTE HOUSE BILL NO. 2087,  
 ENGROSSED HOUSE BILL NO. 2113,  
 HOUSE BILL NO. 2236,  
 SUBSTITUTE HOUSE BILL NO. 2261,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2262,  
 SUBSTITUTE HOUSE BILL NO. 2275,  
 HOUSE BILL NO. 2281,  
 SUBSTITUTE HOUSE BILL NO. 2304,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2352,  
 SUBSTITUTE HOUSE BILL NO. 2366,  
 SUBSTITUTE HOUSE BILL NO. 2378,  
 SUBSTITUTE HOUSE BILL NO. 2394,  
 HOUSE JOINT MEMORIAL NO. 4017

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE HOUSE BILL NO. 1138,  
 HOUSE BILL NO. 1450  
 HOUSE BILL NO. 1598,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1833,  
 SUBSTITUTE HOUSE BILL NO. 1965,  
 ENGROSSED HOUSE BILL NO. 2070,

MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094 and asks the Senate for a conference thereon. Speaker has appointed the following members as Conferees:

Representatives: Clibborn, Flannigan, and Jarrett and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

On motion of Senator Haugen, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 1094 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 1094 and the House amendment(s) there to: Senators Haugen, Marr and Swecker.

## MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

## MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:

The House had adopted the report of Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 5312, and has passed the bill as recommended by the Conference Committee. and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

REPORT OF THE CONFERENCE REPORT  
Engrossed Substitute Senate Bill No. 5312  
April 18, 2007

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute Senate Bill No. 5312, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

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

(1) "Commercial account" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under section 3 of this act.

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

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

(8) "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 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.

(9) "Scrap metal recycling center" means a person with a current business license that is engaged in the business of purchasing or receiving 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.

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

(11) "Transaction" means a pledge, or the purchase of, or the trade of any item of 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 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.

**NEW SECTION. Sec. 2. RECORDS REQUIRED FOR PURCHASING NONFERROUS METAL PROPERTY FROM THE GENERAL PUBLIC.** (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 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 nonferrous metal property subject to the transaction;

(f) A description of the motor vehicle used to deliver the 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 nonferrous metal property subject to the transaction, including the property's classification code as provided in the institute of scrap recycling industries scrap specifications circular, 2006, and weight, quantity, or volume.

(2) For every transaction that involves 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:

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

"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 year following the date of the transaction.

**NEW SECTION. Sec. 3. REQUIREMENTS FOR PURCHASING OR RECEIVING NONFERROUS METAL PROPERTY FROM THE GENERAL PUBLIC.** (1) No scrap metal business may enter into a transaction to purchase or receive 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 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) No transaction involving 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 section 2 of this act. 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 section 2 of this act, no earlier than ten days after the transaction was made. A transaction occurs on the date provided in the record required under section 2 of this act.

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

**NEW SECTION. Sec. 4. RECORD FOR COMMERCIAL ACCOUNTS.** (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 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 nonferrous metal property and commercial metal property from the commercial enterprise. 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.

**NEW SECTION. Sec. 5. REPORTING TO LAW ENFORCEMENT.** (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 nonferrous metal property and commercial metal property involving a specific individual, vehicle, or item of 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) If the scrap metal business has good cause to believe that any 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.

**NEW SECTION. Sec. 6. PRESERVING EVIDENCE OF METAL THEFT.** (1) Following notification, either verbally or in writing, from a commissioned law enforcement officer of the state or any of its political subdivisions that an item of 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 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.

**NEW SECTION. Sec. 7. UNLAWFUL VIOLATIONS.** 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 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 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 nonferrous metal property or commercial metal property from any person under the age of eighteen years

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

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 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 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 section 2 of this act knowing that the nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under section 2 of this act constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the nonferrous metal property subject to the transaction was stolen;

(7) Any scrap metal business to possess 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 section 3(4) of this act.

**NEW SECTION. Sec. 8. CIVIL PENALTIES.** (1) Each violation of the requirements of this chapter that are not subject to the criminal penalties under section 7 of this act shall be punishable, upon conviction, by a fine of not more than one thousand dollars.

(2) Within two years of being convicted of a violation of any of the requirements of this chapter that are not subject to the criminal penalties under section 7 of this act, each subsequent violation shall be punishable, upon conviction, by a fine of not more than two thousand dollars.

**NEW SECTION. Sec. 9. EXEMPTIONS.** The provisions of this chapter do not apply to transactions conducted by the following:

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

(2) Vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW;

(3) Persons in the business of operating an automotive repair facility as defined under RCW 46.71.011; and

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

**Sec. 10.** RCW 9.94A.535 and 2005 c 68 s 3 are each amended to read as follows:

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

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

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

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

(1) Mitigating Circumstances - Court to Consider

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

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

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property or nonferrous metal property, as defined in section 1 of this act.

NEW SECTION. Sec. 11. Sections 1 through 9 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 12. RCW 9.91.110 (Metal buyers--Records of purchases--Penalty) and 1971 ex.s. c 302 s 18 are each repealed.

NEW SECTION. Sec. 13. Captions used in this act are not any part of the 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."

Correct the title.

And the bill do pass as recommended by the conference committee.

Signed by Senators Kline, McCaslin and Tom; Representatives Hurst, Morrell and Warnick.

MOTION

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

Pursuant to Joint Rule 20, on motion of Senator Kline, the provision requiring a twenty-four hour interval before consideration of the conference committee report on Engrossed Substitute Senate Bill No. 5312 was suspended without rejection.

## MOTION

Senator Kline moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 5312 be adopted.

Senators Kline and McCaslin spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 5312 be adopted.

The motion by Senator Kline carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5312, as recommended by the Conference Committee.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5312, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senator Poulsen - 1

Excused: Senators Brown and Kohl-Welles - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5312, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

April 16, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 1088 and asks Senate to recede therefrom. and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

## MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 1088.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 1088.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 1088.

## MOTION

On motion of Senator Hargrove, the rules were suspended and Second Substitute House Bill No. 1088 was returned to second reading for the purposes of amendment.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1088, by House Committee on Appropriations (originally sponsored by Representatives Dickerson, Kagi, Haler, Cody, Appleton, Darneille, Simpson, Takko, Kenney, Williams, Green, McDermott, Roberts, Lantz, McCoy, Ormsby, Schual-Berke, B. Sullivan, Hurst, Pettigrew, O'Brien, Lovick, P. Sullivan, Hasegawa, Hunt, Hudgins, Clibborn, Upthegrove, Morrell, Conway, Sells, Haigh, Quall, Moeller, Goodman, Wallace, Wood and Santos)

Improving delivery of children's mental health services.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.36.005 and 1991 c 326 s 11 are each amended to read as follows:

The legislature intends to (~~encourage the development of community-based interagency collaborative efforts to plan for and provide mental health services to children in a manner that~~) substantially improve the delivery of children's mental health services in Washington state through the development and implementation of a children's mental health system that:

- (1) Values early identification, intervention, and prevention;
- (2) Coordinates existing categorical children's mental health programs and funding, through efforts that include elimination of duplicative care plans and case management;
- (3) Treats each child in the context of his or her family, and provides services and supports needed to maintain a child with his or her family and community;
- (4) Integrates families into treatment through choice of treatment, participation in treatment, and provision of peer support;
- (5) Focuses on resiliency and recovery;
- (6) Relies to a greater extent on evidence-based practices;
- (7) Is sensitive to the unique cultural circumstances of children of color (~~eliminates duplicative case management,~~) and children in families whose primary language is not English;
- (8) Integrates educational support services that address students' diverse learning styles; and
- (9) To the greatest extent possible, blends categorical funding to offer more service and support options to each child.

Sec. 2. RCW 71.36.010 and 1991 c 326 s 12 are each amended to read as follows:

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

- (1) "Agency" means a state, tribal, or local governmental entity or a private not-for-profit organization.
- (2) "Child" means a person under eighteen years of age, except as expressly provided otherwise in state or federal law.
- (3) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.
- (4) "County authority" means the board of county commissioners or county executive.
- ~~((+))~~ (5) "Department" means the department of social and health services.
- ~~((+))~~ (6) "Early periodic screening, diagnosis, and treatment" means the component of the federal medicaid

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

program established pursuant to 42 U.S.C. Sec. 1396d(r), as amended.

~~((6))~~ (7) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(8) "Family" means a child's biological parents, adoptive parents, foster parents, guardian, legal custodian authorized pursuant to Title 26 RCW, a relative with whom a child has been placed by the department of social and health services, or a tribe.

(9) "Promising practice" or "emerging best practice" means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(10) "Regional support network" means a county authority or group of county authorities or other nonprofit entity that ~~((have))~~ has entered into contracts with the secretary pursuant to chapter 71.24 RCW.

~~((7))~~ (11) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(12) "Secretary" means the secretary of social and health services.

(13) "Wraparound process" means a family driven planning process designed to address the needs of children and youth by the formation of a team that empowers families to make key decisions regarding the care of the child or youth in partnership with professionals and the family's natural community supports. The team produces a community-based and culturally competent intervention plan which identifies the strengths and needs of the child or youth and family and defines goals that the team collaborates on achieving with respect for the unique cultural values of the family. The "wraparound process" shall emphasize principles of persistence and outcome-based measurements of success.

**NEW SECTION. Sec. 3.** A new section is added to chapter 71.36 RCW to read as follows:

**ELEMENTS OF A CHILDREN'S MENTAL HEALTH SYSTEM.** (1) It is the goal of the legislature that, by 2012, the children's mental health system in Washington state include the following elements:

(a) A continuum of services from early identification, intervention, and prevention through crisis intervention and inpatient treatment, including peer support and parent mentoring services;

(b) Equity in access to services for similarly situated children, including children with co-occurring disorders;

(c) Developmentally appropriate, high quality, and culturally competent services available statewide;

(d) Treatment of each child in the context of his or her family and other persons that are a source of support and stability in his or her life;

(e) A sufficient supply of qualified and culturally competent children's mental health providers;

(f) Use of developmentally appropriate evidence-based and research-based practices;

(g) Integrated and flexible services to meet the needs of children who, due to mental illness or emotional or behavioral disturbance, are at risk of out-of-home placement or involved with multiple child-serving systems.

(2) The effectiveness of the children's mental health system shall be determined through the use of outcome-based performance measures. The department and the evidence-based practice institute established in section 7 of this act, in consultation with parents, caregivers, youth, regional support networks, mental health services providers, health plans, primary care providers, tribes, and others, shall develop outcome-based performance measures such as:

(a) Decreased emergency room utilization;

(b) Decreased psychiatric hospitalization;

(c) Lessening of symptoms, as measured by commonly used assessment tools;

(d) Decreased out-of-home placement, including residential, group, and foster care, and increased stability of such placements, when necessary;

(e) Decreased runaways from home or residential placements;

(f) Decreased rates of chemical dependency;

(g) Decreased involvement with the juvenile justice system;

(h) Improved school attendance and performance;

(i) Reductions in school or child care suspensions or expulsions;

(j) Reductions in use of prescribed medication where cognitive behavioral therapies are indicated;

(k) Improved rates of high school graduation and employment; and

(l) Decreased use of mental health services upon reaching adulthood for mental disorders other than those that require ongoing treatment to maintain stability.

Performance measure reporting for children's mental health services should be integrated into existing performance measurement and reporting systems developed and implemented under chapter 71.24 RCW.

**NEW SECTION. Sec. 4. REGIONAL SUPPORT NETWORK SERVICES--CHILDREN'S ACCESS TO CARE STANDARDS AND BENEFIT PACKAGE.** As part of the system transformation initiative, the department of social and health services shall undertake the following activities related specifically to children's mental health services:

(1) The development of recommended revisions to the access to care standards for children. The recommended revisions shall reflect the policies and principles set out in RCW 71.36.005, 71.36.010, and section 3 of this act, and recognize that early identification, intervention and prevention services, and brief intervention services may be provided outside of the regional support network system. Revised access to care standards shall assess a child's need for mental health services based upon the child's diagnosis and its negative impact upon his or her persistent impaired functioning in family, school, or the community, and should not solely condition the receipt of services upon a determination that a child is engaged in high risk behavior or is in imminent need of hospitalization or out-of-home placement. Assessment and diagnosis for children under five years of age shall be determined using a nationally accepted assessment tool designed specifically for children of that age. The recommendations shall also address whether amendments to RCW 71.24.025 (26) and (27) and 71.24.035(5) are necessary to implement revised access to care standards;

(2) Development of a revised children's mental health benefit package. The department shall ensure that services included in the children's mental health benefit package reflect the policies and principles included in RCW 71.36.005 and section 3 of this act, to the extent allowable under medicaid, Title XIX of the federal social security act. Strong consideration shall be given to developmentally appropriate evidence-based and research-based practices, family-based interventions, the use of natural and peer supports, and community support services. This effort shall include a review of other states' efforts to fund family-centered children's mental health services through their medicaid programs;

(3) Consistent with the timeline developed for the system transformation initiative, recommendations for revisions to the children's access to care standards and the children's mental health services benefits package shall be presented to the legislature by January 1, 2009.

**NEW SECTION. Sec. 5.** A new section is added to chapter 74.09 RCW to read as follows:

**IMPROVING MEDICATION MANAGEMENT AND CARE COORDINATION.** (1)(a) The department, in consultation with the evidence-based practice institute established in section 7 of this act, shall develop and implement policies to improve prescribing practices for treatment of emotional or behavioral disturbances in children, improve the quality of children's mental health therapy through increased use of evidence-based and research-based practices and reduced variation in practice, improve communication and care coordination between primary care and mental health providers,

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

and prioritize care in the family home or care which integrates the family where out-of-home placement is required.

(b) The department shall identify those children with emotional or behavioral disturbances who may be at high risk due to off-label use of prescription medication, use of multiple medications, high medication dosage, or lack of coordination among multiple prescribing providers, and establish one or more mechanisms to evaluate the appropriateness of the medication these children are using, including but not limited to obtaining second opinions from experts in child psychiatry.

(c) The department shall review the psychotropic medications of all children under five and establish one or more mechanisms to evaluate the appropriateness of the medication these children are using, including but not limited to obtaining second opinions from experts in child psychiatry.

(d) The department shall track prescriptive practices with respect to psychotropic medications with the goal of reducing the use of medication.

(e) The department shall encourage the use of cognitive behavioral therapies and other treatments which are empirically supported or evidence-based, in addition to or in the place of prescription medication where appropriate.

(2) The department shall convene a representative group of regional support networks, community mental health centers, and managed health care systems contracting with the department under RCW 74.09.522 to:

(a) Establish mechanisms and develop contract language that ensures increased coordination of and access to medicaid mental health benefits available to children and their families, including ensuring access to services that are identified as a result of a developmental screen administered through early periodic screening, diagnosis, and treatment;

(b) Define managed health care system and regional support network contractual performance standards that track access to and utilization of services; and

(c) Set standards for reducing the number of children that are prescribed antipsychotic drugs and receive no outpatient mental health services with their medication.

(3) The department shall submit a report on progress and any findings under this section to the legislature by January 1, 2009.

**NEW SECTION. Sec. 6.** A new section is added to chapter 71.36 RCW to read as follows:

**MEDICAID ELIGIBLE CHILDREN IN TEMPORARY JUVENILE DETENTION.** The department shall explore the feasibility of obtaining a medicaid state plan amendment to allow the state to receive medicaid matching funds for health services provided to medicaid enrolled youth who are temporarily placed in a juvenile detention facility. Temporary placement shall be defined as until adjudication or up to sixty continuous days, whichever occurs first.

**NEW SECTION. Sec. 7.** A new section is added to chapter 71.24 RCW to read as follows:

**CHILDREN'S MENTAL HEALTH PROVIDERS.** (1) The department shall provide flexibility in provider contracting to regional support networks for children's mental health services. Beginning with 2007-2009 biennium contracts, regional support network contracts shall authorize regional support networks to allow and encourage licensed community mental health centers to subcontract with individual licensed mental health professionals when necessary to meet the need for an adequate, culturally competent, and qualified children's mental health provider network.

(2) To the extent that funds are specifically appropriated for this purpose or that nonstate funds are available, a children's mental health evidence-based practice institute shall be established at the University of Washington division of public behavioral health and justice policy. The institute shall closely collaborate with entities currently engaged in evaluating and promoting the use of evidence-based, research-based, promising, or consensus-based practices in children's mental health treatment, including but not limited to the University of Washington department of psychiatry and behavioral sciences, children's hospital and regional medical center, the University of Washington school of nursing, the University of Washington

school of social work, and the Washington state institute for public policy. To ensure that funds appropriated are used to the greatest extent possible for their intended purpose, the University of Washington's indirect costs of administration shall not exceed ten percent of appropriated funding. The institute shall:

(a) Improve the implementation of evidence-based and research-based practices by providing sustained and effective training and consultation to licensed children's mental health providers and child-serving agencies who are implementing evidence-based or researched-based practices for treatment of children's emotional or behavioral disorders, or who are interested in adapting these practices to better serve ethnically or culturally diverse children. Efforts under this subsection should include a focus on appropriate oversight of implementation of evidence-based practices to ensure fidelity to these practices and thereby achieve positive outcomes;

(b) Continue the successful implementation of the "partnerships for success" model by consulting with communities so they may select, implement, and continually evaluate the success of evidence-based practices that are relevant to the needs of children, youth, and families in their community;

(c) Partner with youth, family members, family advocacy, and culturally competent provider organizations to develop a series of information sessions, literature, and on-line resources for families to become informed and engaged in evidence-based and research-based practices;

(d) Participate in the identification of outcome-based performance measures under section 3(2) of this act and partner in a statewide effort to implement statewide outcomes monitoring and quality improvement processes; and

(e) Serve as a statewide resource to the department and other entities on child and adolescent evidence-based, research-based, promising, or consensus-based practices for children's mental health treatment, maintaining a working knowledge through ongoing review of academic and professional literature, and knowledge of other evidence-based practice implementation efforts in Washington and other states.

(3) To the extent that funds are specifically appropriated for this purpose, the department in collaboration with the evidence-based practice institute shall implement a pilot program to support primary care providers in the assessment and provision of appropriate diagnosis and treatment of children with mental and behavioral health disorders and track outcomes of this program. The program shall be designed to promote more accurate diagnoses and treatment through timely case consultation between primary care providers and child psychiatric specialists, and focused educational learning collaboratives with primary care providers.

**NEW SECTION. Sec. 8.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The department shall adopt rules and policies providing that when youth who were enrolled in a medical assistance program immediately prior to confinement are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The department, in collaboration with county juvenile court administrators and regional support networks, shall establish procedures for coordination between department field offices, juvenile rehabilitation administration institutions, and county juvenile courts that result in prompt reinstatement of eligibility and speedy eligibility determinations for youth who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services' applications on behalf of confined youth in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined youth and, to the extent practicable, completion of the review before the youth is released; and



ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

(c) Mechanisms for providing medical assistance services' identity cards to youth eligible for medical assistance services immediately upon their release from confinement.

(3) For purposes of this section, "confined" or "confinement" means detained in a facility operated by or under contract with the department of social and health services, juvenile rehabilitation administration, or detained in a juvenile detention facility operated under chapter 13.04 RCW.

(4) The department shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined youth who is likely to be eligible for a medical assistance program.

**NEW SECTION. Sec. 9.** Educational service district boards may partner with regional support networks to respond to a request for proposal for operation of a wraparound model site under this act and, if selected, may contract for the provision of services to coordinate care and facilitate the delivery of services and other supports under a wraparound model.

**NEW SECTION. Sec. 10.** WRAPAROUND MODEL OF INTEGRATED CHILDREN'S MENTAL HEALTH SERVICES DELIVERY. To the extent funds are specifically appropriated for this purpose, the department of social and health services shall contract for implementation of a wraparound model of integrated children's mental health services delivery in up to four regional support network regions in Washington state in which wraparound programs are not currently operating, and in up to two regional support network regions in which wraparound programs are currently operating. Contracts in regions with existing wraparound programs shall be for the purpose of expanding the number of children served.

(1) Funding provided may be expended for: Costs associated with a request for proposal and contracting process; administrative costs associated with successful bidders' operation of the wraparound model; the evaluation under subsection (5) of this section; and funding for services needed by children enrolled in wraparound model sites that are not otherwise covered under existing state programs. The services provided through the wraparound model sites shall include, but not be limited to, services covered under the medicaid program. The department shall maximize the use of medicaid and other existing state-funded programs as a funding source. However, state funds provided may be used to develop a broader service package to meet needs identified in a child's care plan. Amounts provided shall supplement, and not supplant, state, local, or other funding for services that a child being served through a wraparound site would otherwise be eligible to receive.

(2) The wraparound model sites shall serve children with serious emotional or behavioral disturbances who are at high risk of residential or correctional placement or psychiatric hospitalization, and who have been referred for services from the department, a county juvenile court, a tribal court, a school, or a licensed mental health provider or agency.

(3) Through a request for proposal process, the department shall contract, with regional support networks, alone or in partnership with either educational service districts or entities licensed to provide mental health services to children with serious emotional or behavioral disturbances, to operate the wraparound model sites. The contractor shall provide care coordination and facilitate the delivery of services and other supports to families using a strength-based, highly individualized wraparound process. The request for proposal shall require that:

(a) The regional support network agree to use its medicaid revenues to fund services included in the existing regional support network's benefit package that a medicaid-eligible child participating in the wraparound model site is determined to need;

(b) The contractor provide evidence of commitments from at least the following entities to participate in wraparound care plan development and service provision when appropriate: Community mental health agencies, schools, the department of social and health services children's administration, juvenile courts, the department of social and health services juvenile

rehabilitation administration, and managed health care systems contracting with the department under RCW 74.09.522; and

(c) The contractor will operate the wraparound model site in a manner that maintains fidelity to the wraparound process as defined in RCW 71.36.010.

(4) Contracts for operation of the wraparound model sites shall be executed on or before April 1, 2008, with enrollment and service delivery beginning on or before July 1, 2008.

(5) The evidence-based practice institute established in section 7 of this act shall evaluate the wraparound model sites, measuring outcomes for children served. Outcomes measured shall include, but are not limited to: Decreased out-of-home placement, including residential, group, and foster care, and increased stability of such placements, school attendance, school performance, recidivism, emergency room utilization, involvement with the juvenile justice system, decreased use of psychotropic medication, and decreased hospitalization.

(6) The evidence-based practice institute shall provide a report and recommendations to the appropriate committees of the legislature by December 1, 2010.

**NEW SECTION. Sec. 11.** A new section is added to chapter 74.09 RCW to read as follows:

(1) To the extent that funds are specifically appropriated for this purpose the department shall revise its medicaid healthy options managed care and fee-for-service program standards under medicaid, Title XIX of the federal social security act to improve access to mental health services for children who do not meet the regional support network access to care standards. Effective July 1, 2008, the program standards shall be revised to allow outpatient therapy services to be provided by licensed mental health professionals, as defined in RCW 71.34.020, and up to twenty outpatient therapy hours per calendar year, including family therapy visits integral to a child's treatment.

(2) This section expires July 1, 2010.

**NEW SECTION. Sec. 12.** (1) The evidence-based practice institute established in section 7 of this act, in consultation with the Washington state institute for public policy, shall review and summarize current law with respect to inpatient and outpatient mental health treatment for minors.

(2) The review shall include current practices to determine the percentage of cases in which parents are engaged by treatment providers and the extent to which they are actively involved in the treatment of their minor children.

(3) The evidence-based practice institute shall provide a report and recommendations to the appropriate legislative committees by December 1, 2008.

(4) This section expires December 1, 2008.

**NEW SECTION. Sec. 13.** The following acts or parts of acts are each repealed:

(1) RCW 71.36.020 (Plan for early periodic screening, diagnosis, and treatment services) and 2003 c 281 s 4 & 1991 c 326 s 13; and

(2) RCW 71.36.030 (Children's mental health services delivery system--Local planning efforts) and 1991 c 326 s 14.

**NEW SECTION. Sec. 14.** Captions used in this act are not part of the law.

**NEW SECTION. Sec. 15.** If specific funding for the purposes of sections 4, 5, 7, 8, 10, and 11 of this act, referencing the section by section number and by bill or chapter number, is not provided by June 30, 2007, each section not referenced is null and void."

Senators Hargrove and Stevens spoke in favor of adoption of the striking amendment.

#### MOTION

On motion of Senator Brandland, Senator Swecker was excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Second Substitute House Bill No. 1088.

The motion by Senator Hargrove carried and the striking

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "services;" strike the remainder of the title and insert "amending RCW 71.36.005 and 71.36.010; adding new sections to chapter 71.36 RCW; adding new sections to chapter 74.09 RCW; adding a new section to chapter 71.24 RCW; creating new sections; repealing RCW 71.36.020 and 71.36.030; and providing expiration dates."

## MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 1088 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

## MOTION

On motion of Senator Regala, Senators Berkey, Fraser, Hobbs, Marr, McCaslin, Poulsen, Shin and Tom were excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1088 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1088 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 0; Absent, 0; Excused, 10.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Weinstein and Zarelli - 39

Excused: Senators Berkey, Brown, Hobbs, Kohl-Welles, Marr, McAuliffe, Poulsen, Shin, Swecker and Tom - 10

SECOND SUBSTITUTE HOUSE BILL NO. 1088 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

April 17, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1333 and asks Senate to recede therefrom.

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

## MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1333.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its

position in the Senate amendment(s) to Substitute House Bill No. 1333.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 1333.

## MOTION

On motion of Senator Hargrove, the rules were suspended and Substitute House Bill No. 1333 was returned to second reading for the purposes of amendment.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1333, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Hinkle, Kagi and Walsh)

Concerning child welfare protections.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.34.138 and 2005 c 512 s 3 are each amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145(3) or 13.34.134. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits. This review shall consider both the agency's and parent's efforts that demonstrate consistent measurable progress over time in meeting the disposition plan requirements. The requirements for the initial review hearing, including the in-court requirement, shall be accomplished within existing resources. The supervising agency shall provide a foster parent, preadoptive parent, or relative with notice of, and their right to an opportunity to be heard in, a review hearing pertaining to the child, but only if that person is currently providing care to that child at the time of the hearing. This section shall not be construed to grant party status to any person who has been provided an opportunity to be heard.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration and preference has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

~~(c)~~ (d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(2)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with an agency case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the agency case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's

substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(3) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

(4) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

Sec. 2. RCW 13.34.025 and 2002 c 52 s 2 are each amended to read as follows:

(1) The department of social and health services shall develop methods for coordination of services to parents and children in child dependency cases. To the maximum extent possible under current funding levels, the department must:

~~((+))~~ (a) Coordinate and integrate services to children and families, using service plans and activities that address the children's and families' multiple needs, including ensuring that siblings have regular visits with each other, as appropriate. Assessment criteria should screen for multiple needs;

~~((+))~~ (b) Develop treatment plans for the individual needs of the client in a manner that minimizes the number of contacts the client is required to make; and

~~((+))~~ (c) Access training for department staff to increase skills across disciplines to assess needs for mental health, substance abuse, developmental disabilities, and other areas.

(2) The department shall coordinate within the administrations of the department, and with contracted service providers, to ensure that parents in dependency proceedings under this chapter receive priority access to remedial services recommended by the department in its social study or ordered by the court for the purpose of correcting any parental deficiencies identified in the dependency proceeding that are capable of being corrected in the foreseeable future. Services may also be provided to caregivers other than the parents as identified in RCW 13.34.138.

(a) For purposes of this chapter, remedial services are those services defined in the federal adoption and safe families act as time-limited family reunification services. Remedial services include individual, group, and family counseling; substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary child care and therapeutic services for families; and transportation to or from any of the above services and activities.

(b) The department shall provide funds for remedial services if the parent is unable to pay to the extent funding is appropriated in the operating budget or otherwise available to the department for such specific services. As a condition for receiving funded remedial services, the court may inquire into the parent's ability to pay for all or part of such services or may require that the parent make appropriate applications for funding to alternative funding sources for such services.

(c) If court-ordered remedial services are unavailable for any reason, including lack of funding, lack of services, or language barriers, the department shall promptly notify the court that the parent is unable to engage in the treatment due to the inability to access such services.

(d) This section does not create an entitlement to services and does not create judicial authority to order the provision of services except for the specific purpose of making reasonable

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

efforts to remedy parental deficiencies identified in a dependency proceeding under this chapter.

**NEW SECTION. Sec. 3.** A new section is added to chapter 26.44 RCW to read as follows:

(1) Each county shall revise and expand its existing child sexual abuse investigation protocol to address investigations of child fatality, child physical abuse, and criminal child neglect cases and to incorporate the statewide guidelines for first responders to child fatalities developed by the criminal justice training commission. The protocols shall address the coordination of child fatality, child physical abuse, and criminal child neglect investigations between the county and city prosecutor's offices, law enforcement, children's protective services, local advocacy groups, emergency medical services, and any other local agency involved in the investigation of such cases. The protocol revision and expansion shall be developed by the prosecuting attorney in collaboration with the agencies referenced in this section.

(2) Revised and expanded protocols under this section shall be adopted and in place by July 1, 2008. Thereafter, the protocols shall be reviewed every two years to determine whether modifications are needed.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.101 RCW to read as follows:

(1) The commission, in consultation with the department of social and health services, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys, shall develop a curriculum related to child abuse and neglect to be included in the basic law enforcement training that must be successfully completed within the first fifteen months of employment of all law enforcement personnel.

(2) The curriculum must be incorporated into the basic law enforcement training program by July 1, 2008.

**NEW SECTION. Sec. 5.** (1) The joint legislative audit and review committee shall analyze gaps throughout the state in the availability and accessibility of services identified in the federal adoption and safe families act as it existed on the effective date of this section.

(2) The joint legislative audit and review committee shall submit to appropriate committees of the legislature a report and recommendations by December 1, 2007.

**NEW SECTION. Sec. 6.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The administrative office of the courts, in consultation with the attorney general's office and the department of social and health services, shall compile an annual report, providing information about cases that fail to meet statutory guidelines to achieve permanency for dependent children.

(2) The administrative office of the courts shall submit the annual report required by this section to appropriate committees of the legislature by December 1st of each year, beginning on December 1, 2007.

**Sec. 7.** RCW 74.13.330 and 1990 c 284 s 23 are each amended to read as follows:

Foster parents are responsible for the protection, care, supervision, and nurturing of the child in placement. As an integral part of the foster care team, foster parents shall, if appropriate and they desire to: Participate in the development of the service plan for the child and the child's family; assist in family visitation, including monitoring; ~~((and))~~ model effective parenting behavior for the natural family; and be available to help with the child's transition back to the natural family.

**Sec. 8.** RCW 71.24.035 and 2006 c 333 s 201 are each amended to read as follows:

(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.

(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 mentally ill adults and children. 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 defendants in dependency cases, in the following order of priority: (i) The acutely mentally ill; (ii) chronically mentally ill adults and severely emotionally disturbed children; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for mentally ill persons 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 mentally ill persons 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 minorities, the elderly, disabled, children, ~~((and))~~ low-income persons, and parents who are defendants in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards and RCW 71.24.320, 71.24.330, and 71.24.3201, 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

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

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;

(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; and

(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.

(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 department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(14) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. 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, 71.34, and 71.24 RCW, 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.

(15) 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.

(16) 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 free-standing 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.

NEW SECTION. Sec. 9. This act may be known and cited as Sirita's law."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Substitute House Bill No. 1333.

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

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "children;" strike the remainder of the title and insert "amending RCW 13.34.138, 13.34.025, 74.13.330, and 71.24.035; adding a new section to chapter 26.44 RCW; adding a new section to chapter 43.101 RCW; adding a new section to chapter 13.34 RCW; and creating new sections."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1333 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1333 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

Substitute House Bill No. 1333 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Weinstein and Zarelli - 40

Excused: Senators Berkey, Brown, Hobbs, Kohl-Welles, Marr, McAuliffe, Shin, Swecker and Tom - 9

SUBSTITUTE HOUSE BILL NO. 1333 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 1334 and asks Senate to recede therefrom and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 1334.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 1334.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 1334.

MOTION

On motion of Senator Hargrove, the rules were suspended and Second Substitute House Bill No. 1334 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1334, by House Committee on Appropriations (originally sponsored by Representatives Hinkle and Walsh)

Requiring the petitioner in a child welfare case to provide the court with relevant documentation.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that in order to allow courts to make well-informed placement decisions for children in the care of the state, the courts must have accurate information, including documentation supporting

assertions or recommendations made by social workers, when appropriate.

NEW SECTION. Sec. 2. A new section is added to chapter 13.34 RCW to read as follows:

In any proceeding under this chapter, if the department submits a report to the court in which the department is recommending a new placement or a change in placement, the department shall include the documents relevant to persons in the home in which a child will be placed and listed in subsections (1) through (5) of this section to the report. The department shall include only these relevant documents and shall not attach the entire history of the subject of the report.

(1) If the report contains a recommendation, opinion, or assertion by the department relating to substance abuse treatment, mental health treatment, anger management classes, or domestic violence classes, the department shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report or evaluation submitted by the provider, but may not include the entire history with the provider.

(2) If the report contains a recommendation, opinion, or assertion by the department relating to visitation with a child, the department shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the most recent visitation report, a visitation report referencing a specific incident alleged in the report, or summary of the visitation prepared by the person who supervised the visitation. The documentation attached to the report shall not include the entire visitation history.

(3) If the report contains a recommendation, opinion, or assertion by the department relating to the psychological status of a person, the department shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report, evaluation, or summary submitted by the provider, but shall not include the entire history of the person.

(4) If the report contains a recommendation, opinion, or assertion by the department relating to injuries to a child, the department shall attach a summary of the physician's report, prepared by the physician or the physician's designee, relating to the recommendation, opinion, or assertion by the department.

(5) If the report contains a recommendation, opinion, or assertion by the department relating to a home study, licensing action, or background check information, the department shall attach the document or documents upon which that recommendation, opinion, or assertion is based.

NEW SECTION. Sec. 3. This act shall be known and cited as the Rafael Gomez act.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Second Substitute House Bill No. 1334.

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

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "proceedings;" strike the remainder of the title and insert "adding a new section to chapter 13.34 RCW; and creating new sections."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 1334 as amended by the

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

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

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1334 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1334 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Weinstein and Zarelli - 40

Excused: Senators Berkey, Brown, Hobbs, Kohl-Welles, Marr, McAuliffe, Shin, Swecker and Tom - 9

SECOND SUBSTITUTE HOUSE BILL NO. 1334 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 17, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to HOUSE BILL NO. 1377 and asks Senate to recede therefrom. and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to House Bill No. 1377.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to House Bill No. 1377.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to House Bill No. 1377.

#### MOTION

On motion of Senator Hargrove, the rules were suspended and House Bill No. 1377 was returned to second reading for the purposes of amendment.

#### SECOND READING

HOUSE BILL NO. 1377, by Representatives Pettigrew, Hinkle, Walsh, Haler, Kagi, Appleton, Warnick and Roberts

Changing provisions affecting the placement of children.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.15.020 and 2006 c 265 s 401, 2006 c 90 s 1, and 2006 c 54 s 7 are each reenacted and amended to read as follows:

For the purpose of this chapter and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

(a) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

(d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(f) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(i) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

(j) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(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;

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated; ~~(or)~~

(v) Relatives, as named in (i), (ii), (iii), or (iv) of this subsection (2)(a), of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States immigration and naturalization service, or persons who have the care of such an international child in their home;

(f) Schools, including boarding schools, which 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) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities approved and certified under chapter 71A.22 RCW;

(j) Any agency having been in operation in this state ten years prior to 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;

(k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

(m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(3) "Department" means the state department of social and health services.

(4) "Family child care licensee" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) does not receive child care subsidies; and (c) is licensed by the state under RCW 74.15.030.

(5) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(6) "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.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(8) "Secretary" means the secretary of social and health services.

(9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(10) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the job training partnership act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

**Sec. 2.** RCW 13.34.130 and 2003 c 227 s 3 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative or the department or a licensed child placing agency for ~~((placement))~~ supervision of the child's placement. The department or agency supervising the child's placement has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or ~~((in a home not required to be licensed pursuant to chapter 74.15~~



ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

RCW)) (iii) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is: ((†)) (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; and ((††)) (B) willing and available to care for the child.

(2) Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(5) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with

relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to House Bill No. 1377.

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

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "children;" strike the remainder of the title and insert "amending RCW 13.34.130; and reenacting and amending RCW 74.15.020."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 1377 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Bill No. 1377 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1377 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Weinstein and Zarelli - 40

Excused: Senators Berkey, Brown, Hobbs, Kohl-Welles, Marr, McAuliffe, Shin, Swecker and Tom - 9

HOUSE BILL NO. 1377 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 14, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1624 and asks Senate to recede therefrom. and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate recede from its

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1624.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1624.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1624.

#### MOTION

On motion of Senator Hargrove, the rules were suspended and Engrossed Substitute House Bill No. 1624 was returned to second reading for the purposes of amendment.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1624, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Walsh, Appleton, Roberts and Haigh)

Reinstating parental rights for adolescents who are in state care and have not been adopted and providing immunity for department of social and health services representatives.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 13.34 RCW to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c) The child has not achieved his or her permanency plan within three years of a final order of termination, or if the final order was appealed, within three years of exhaustion of any right to appeal the order terminating parental rights; and

(d) Absent good cause, the child must be at least twelve years old at the time the petition is filed.

(2) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(3) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(4) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, it appears that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(5) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department, the child's attorney, and the child. The court shall also order the department to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(6) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In

determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(7) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(8)(a) If the court conditionally grants the petition under subsection (6) of this section, the case will be continued for six months. During this period, the child shall be placed in the custody of the parent. The department shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(9) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(10) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(11) The state, the department, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, or its employees concerning the original termination.

(12) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

**Sec. 2.** RCW 13.34.200 and 2003 c 227 s 7 are each amended to read as follows:

(1) Upon the termination of parental rights pursuant to RCW 13.34.180, all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceedings concerning the child, except as provided in section 1 of this act: PROVIDED, That any support obligation existing prior to the effective date of the order terminating parental rights shall not be severed or terminated. The rights of one parent may be terminated without affecting the rights of the other parent and the order shall so state.

(2) An order terminating the parent and child relationship shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States, nor shall any action under this chapter be deemed to affect any rights and benefits that an Indian child derives from the child's descent from a member of a federally recognized Indian tribe.

(3) An order terminating the parent-child relationship shall include a statement addressing the status of the child's sibling

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

relationships and the nature and extent of sibling placement, contact, or visits.

**NEW SECTION, Sec. 3.** A new section is added to chapter 43.20A RCW to read as follows:

The state is not liable for civil damages resulting from any act or omission in the delivery of child welfare services or child protective services through the children's administration of the department of social and health services unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists.

**Sec. 4.** RCW 13.34.060 and 2002 c 52 s 4 are each amended to read as follows:

(1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. A child taken by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070 shall be placed in shelter care only when permitted under RCW 13.34.055. No child may be held longer than seventy-two hours, excluding Saturdays, Sundays, and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. In no case may a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention facility.

~~((+))~~ (2) Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered, priority placement for a child in shelter care, pending a court hearing, shall be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b). The person must be willing and available to care for the child and be able to meet any special needs of the child and the court must find that such placement is in the best interests of the child. The person must be willing to facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court. If a child is not initially placed with a relative or other suitable person requested by the parent pursuant to this section, the supervising agency shall make an effort within available resources to place the child with a relative or other suitable person requested by the parent on the next business day after the child is taken into custody. The supervising agency shall document its effort to place the child with a relative or other suitable person requested by the parent pursuant to this section. Nothing within this subsection ~~((+))~~ (2) establishes an entitlement to services or a right to a particular placement.

~~((+))~~ (3) Whenever a child is taken into custody pursuant to this section, the supervising agency may authorize evaluations of the child's physical or emotional condition, routine medical and dental examination and care, and all necessary emergency care. ~~(In no case may a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Saturdays, Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a shelter care hearing. The court shall hold a shelter care hearing within seventy-two hours after the child is taken into custody, excluding Saturdays, Sundays, and holidays. If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary.)~~

~~(2) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parents, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title as soon as possible and in no event shall notice be provided more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody. The~~

~~notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.)~~

**Sec. 5.** RCW 13.34.062 and 2004 c 147 s 2 are each amended to read as follows:

(1)(a) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parent, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title, including the right to a shelter care hearing, as soon as possible. Notice must be provided in an understandable manner and take into consideration the parent's, guardian's, or legal custodian's primary language, level of education, and cultural issues.

(b) In no event shall the notice required by this section be provided to the parent, guardian, or legal custodian more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody.

~~(2)(a) The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.~~

~~(b) The written notice of custody and rights required by ((RCW 13.34.060)) this section shall be in substantially the following form:~~

"NOTICE

Your child has been placed in temporary custody under the supervision of Child Protective Services (or other person or agency). You have important legal rights and you must take steps to protect your interests.

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody excluding Saturdays, Sundays, and holidays. You should call the court at (insert appropriate phone number here) for specific information about the date, time, and location of the court hearing.

2. You have the right to have a lawyer represent you at the hearing. Your right to representation continues after the shelter care hearing. You have the right to records the department intends to rely upon. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

4. If your hearing occurs before a court commissioner, you have the right to have the decision of the court commissioner reviewed by a superior court judge. To obtain that review, you must, within ten days after the entry of the decision of the court commissioner, file with the court a motion for revision of the decision, as provided in RCW 2.24.050.

You should be present at any shelter care hearing. If you do not come, the judge will not hear what you have to say.

You may call the Child Protective Services' caseworker for more information about your child. The caseworker's name and telephone number are: (insert name and telephone number).

5. You have a right to a case conference to develop a written service agreement following the shelter care hearing. The service agreement may not conflict with the court's order of

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

shelter care. You may request that a multidisciplinary team, family group conference, or prognostic staffing be convened for your child's case. You may participate in these processes with your counsel present."

Upon receipt of the written notice, the parent, guardian, or legal custodian shall acknowledge such notice by signing a receipt prepared by child protective services. If the parent, guardian, or legal custodian does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall be made a part of the court's file in the dependency action.

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

~~((2))~~ (3) If child protective services is not required to give notice under ~~((RCW 13.34.060(2) and subsection (1) of))~~ this section, the juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

~~((3))~~ (4) Reasonable efforts to advise and to give notice, as required in ~~((RCW 13.34.060(2) and subsections (1) and (2) of))~~ this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such reasonable efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the petitioner shall testify at the hearing or state in a declaration:

(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or legal custodian; and

(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.

~~((4))~~ The court shall hear evidence regarding notice given to, and efforts to notify, the parent, guardian, or legal custodian and shall examine the need for shelter care. The court shall hear evidence regarding the efforts made to place the child with a relative. The court shall make an express finding as to whether the notice required under RCW 13.34.060(2) and subsections (1) and (2) of this section was given to the parent, guardian, or legal custodian. All parties have the right to present testimony to the court regarding the need or lack of need for shelter care. Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

~~(5)(a)~~ A shelter care order issued pursuant to RCW 13.34.065 shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

~~(b)~~ If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days prior to the fact-finding hearing.

~~(c)~~ The court may order a conference or meeting as an alternative to the case conference required under RCW 13.34.067 so long as the conference or meeting ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

~~(6)~~ A shelter care order issued pursuant to RCW 13.34.065 may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

~~(7)~~ Any parent, guardian, or legal custodian who for good cause is unable to attend the initial shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within

~~seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.)~~

Sec. 6. RCW 13.34.065 and 2001 c 332 s 3 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) The ((juvenile court probation counselor)) department of social and health services shall submit a recommendation to the court as to the further need for shelter care ((unless the petition has been filed by the department, in which case the recommendation shall be submitted by the department)) in all cases in which it is the petitioner. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative;

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether restraining orders, or orders expelling an allegedly abusive parent from the home, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. However, the court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

((2)) (5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

((a)) (i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

((b)(i)) (ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

((c)) (B) The release of such child would present a serious threat of substantial harm to such child; or

((d)) (C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, and the child was initially placed with a relative pursuant to RCW 13.34.060(1), the court shall order continued placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. ~~(The court shall enter a finding as to whether RCW 13.34.060(2) and subsections (1) and (2) of this section have been complied with. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090.~~

—(3)) If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

((4)) (8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

((5)) (b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 7. RCW 13.34.130 and 2003 c 227 s 3 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home into the custody, control, and care of a relative or the department or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

chapter 74.15 RCW. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is: (i) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; and (ii) willing and available to care for the child.

(2) Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

~~((5))~~ (6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding

parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

**Sec. 8.** RCW 13.34.136 and 2004 c 146 s 1 are each amended to read as follows:

(1) ~~((Whenever a child is ordered removed from the child's 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 ((charged with his or her care shall provide the court with))~~ 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 supervising agency's proposed permanency plan must be provided to the 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; 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 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(4), 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 agency 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 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 agency 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.

(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 agency 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 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, 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.

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department.

(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 agency charged with supervising a child in placement shall provide all reasonable services that are available within the 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(4), 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 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.

~~((2))~~ (3) 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.

(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.

~~((3))~~ (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(3).

(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. 9.** RCW 13.34.138 and 2005 c 512 s 3 are each amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first ~~(-at a)~~. The purpose of the hearing ((in which it)) shall be ((determined)) to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145~~((3))~~ (1)(a) or 13.34.134. ~~((The review shall include findings regarding the agency and parental~~

~~completion of disposition plan requirements, and if necessary, revised permanency time limits. This review shall consider both the agency's and parent's efforts that demonstrate consistent measurable progress over time in meeting the disposition plan requirements. The requirements for the initial review hearing, including the in-court requirement, shall be accomplished within existing resources. The supervising agency shall provide a foster parent, preadoptive parent, or relative with notice of, and their right to an opportunity to be heard in, a review hearing pertaining to the child, but only if that person is currently providing care to that child at the time of the hearing. This section shall not be construed to grant party status to any person who has been provided an opportunity to be heard.)~~

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) ~~((Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered))~~ Whether the agency is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

~~((iii))~~ (vii) Whether ((the child has been placed in the least restrictive setting appropriate to the child's needs, including whether consideration and)) preference has been given to placement with the child's relatives;

~~((iii))~~ Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

~~((vi))~~ (viii) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(ix) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

~~((vii))~~ Whether additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

~~((viii))~~ (x) Whether terms of visitation need to be modified;

(xi) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

~~((2))~~ (3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with an agency case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the agency case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

~~((3))~~ (4) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

~~((4))~~ (5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

**Sec. 10.** RCW 13.34.145 and 2003 c 227 s 6 are each amended to read as follows:

(1) ~~(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.~~

~~(a) Whenever a child is placed in out-of-home care pursuant to RCW 13.34.130, the agency that has custody of the child shall provide the court with a written permanency plan of care directed towards securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; 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; a responsible living skills program; and independent living, if appropriate and if the child is age sixteen or older and the provisions of subsection (2) of this section are met.~~

~~(b) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.~~

~~(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.~~

~~(d) For purposes related to permanency planning:~~

~~(i) "Guardianship" means a dependency guardianship, a legal guardianship pursuant to chapter 11.88 RCW, or equivalent laws of another state or a federally recognized Indian tribe.~~

~~(ii) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.~~

~~(iii) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or of a federally recognized Indian tribe.~~

~~(2) Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.~~

~~(3)) 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.~~

~~((4)) (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 ~~(subsection (3) of)~~ 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.~~

~~((5)) (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.~~

~~((6)) (3) At the permanency planning hearing, the court shall ~~(enter findings as required by RCW 13.34.138 and shall review the permanency plan prepared by the agency))~~ 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 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 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~~



ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

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 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.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280 and 13.34.138. ~~((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. 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.))~~

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the 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.

~~((7))~~ (5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

~~(10) ((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.~~

~~((11) Except as provided in RCW 13.34.235, the status of all dependent children shall continue to be reviewed by the court at least once every six months, in accordance with RCW 13.34.138, until the dependency is dismissed. 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.~~

~~((12)) 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 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.~~

~~((13))~~ (11) 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.

~~((14))~~ (12) 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. 11.** RCW 74.13.031 and 2006 c 266 s 1 and 2006 c 221 s 3 are each reenacted and amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency; PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) Have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

(11) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(12) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court

order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(14) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(15) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

**NEW SECTION. Sec. 12.** (1) The secretary of the department of social and health services shall work in conjunction with the University of Washington to study the need for and the feasibility of creating tiered classifications for foster parent licensing, including a professional foster parent classification. The secretary of the department of social and health services and the dean of the school of social work, or his or her designee, at the University of Washington jointly shall facilitate a work group composed of: (a) The president of the senate shall appoint two members from each of the two largest caucuses of the senate; and the speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives; (b) four foster parents, including two representatives from the foster parent association of Washington state; (c) the director of the institute for children and families at the University of Washington; (d) a representative of the Washington federation of state employees; and (e) four or more child welfare professionals with subject matter expertise from the public, private, or academic communities.

(2) To promote the exchange of ideas and collaboration, the secretary and the director also shall convene at least two focused stakeholder meetings seeking input from a broad range of foster parents, social workers, and community members. To facilitate the exchange of ideas, the department of social and health services shall provide to the work group the contact information for licensed foster parents for the sole purpose of communicating with foster parents regarding issues relevant to foster parents. The work group shall keep the contact information confidential and shall develop guidelines for the use and maintenance of this contact information among work group members.

(3) The secretary of the department of social and health services and the dean of the school of social work, or his or her designee, at the University of Washington shall report the recommendations of the work group to the appropriate committees of the legislature by January 1, 2008.

**NEW SECTION. Sec. 13.** Section 12 of this act expires January 1, 2008.

**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."

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Engrossed Substitute House Bill No. 1624.

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

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "welfare;" strike the remainder of the title and insert "amending RCW 13.34.200, 13.34.060, 13.34.062, 13.34.065, 13.34.130, 13.34.136, 13.34.138, and 13.34.145; reenacting and amending RCW 74.13.031; adding a new section to chapter 13.34 RCW; adding a new section to chapter 43.20A RCW; creating a new section; and providing an expiration date."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1624 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1624 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1624 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Weinstein and Zarelli - 40

Excused: Senators Berkey, Brown, Hobbs, Kohl-Welles, Marr, McAuliffe, Shin, Swecker and Tom - 9

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1624 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Franklin: "Thank you Mr. President. Ladies and gentlemen of the Senate, each session about this time I take the opportunity to have a moment of reflection about what has taken place during the session, why we are here and the opportunity to be a public servant, to serve those who elected and sent me to represent them, as well as the people of the State of Washington and to have the honor to be able to work with colleagues. Mr. President, ladies and gentlemen of the Senate, it is indeed an honor and a privilege and to serve in public service, is a great thing to do. During this past year as all of my colleagues and everyone know, I reached that August number to join my colleague across the aisle, to be an octogenarian. Now there are two of us, he's not alone and each one of you had a part in that. I would say that we are family in Olympia and I appreciate that and all who contributed to that. And too, if you'll allow me, Mr. President, as a high school student and one who pushes for education and for learning and to look at really what we are all about and what takes place as we move and have a journey

through life. There is a great speech. One that for all time, that we learned as students in my school, in the south and, of course, we were great historians. If you'll allow me, Mr. President, I would like to read it because it is one that, as I for a short time this morning had the opportunity just to watch the debate of what was taking place in our national capitol in regards to the vote for Washington D.C. citizens who have been trying for many years to have representation in the Congress and that debate is on. But, this is the Gettysburg Address and it's one of those great speeches of all times much as the one that MLK, Dr. King, did in Washington D.C. I think it is something that is for all times and it says:

"Four score and seven years ago our fathers brought forth, upon this continent a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal."

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met here on a great battlefield of that war. We have come to dedicate a portion of it as a final resting place for those who here gave their lives that this nation might live. It is altogether fitting and proper that we should do this.

But, in a larger sense, we can not dedicate we can not consecrate...we can not hallow this ground. The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us, the living, rather, to be dedicated here to unfinished work which they who fought here have thus far so nobly advanced on. It is rather for us to be here dedicated to the great task remaining before us -- that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion; that we here highly resolve that these dead shall not have died in vain; that this nation, under God, shall have a new birth of freedom; and that this government of the people, by the people, for the people, shall not perish from the earth."

The Gettysburg Address. Each time you go to Arlington and see those crosses and as we look around the chambers and we see the flags here and when you visit those cemeteries on foreign lands and even here at home, you know what has taken place. What is taken place now much as I would say in the Gettysburg Address, we then what has happened will not let our present troops, we will not let our present men and women who are serving gallantly, who then, who we owe much to, that we can we, in these chambers, this afternoon to pass bills, to work on policy that their work will not be in vain. So, again my colleagues, ladies and gentlemen of the Senate, Mr. President, this is indeed a proud moment to be a public servant, to be an octogenarian and to then also continue and I look forward to continue working to perhaps when I'm ninety. Thank you."

#### MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5097, with the following amendment: 5097-S AMH CURT COLV 045, 5097-S AMH .... COLV 046

On page 4, beginning on line 27, strike all of Section 3

Correct the title

On page 2, line 15, after "plans." strike "Each" and insert "Subject to amounts appropriated for this specific purpose, each"

On page 3, line 7, after "~~(4)~~" strike "School" and insert "Subject to amounts appropriated for this specific purpose, school"

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

On page 3, line 22, after "(4)" strike "School" and insert "Subject to amounts appropriated for this specific purpose, school"

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5097 and ask the House to recede therefrom.

Senators Rockefeller and Zarelli spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Rockefeller that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5097 and ask the House to recede therefrom.

The motion by Senator Rockefeller carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5097 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5009, with the following amendment: 5009-S AMH HUNT H3490.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.08.865 and 2006 c 7 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of diesel fuel, biodiesel fuel, or aircraft fuel (~~as defined in RCW 82.42.010(5)~~), to a farm fuel user for nonhighway use. This exemption applies to a fuel blend if all of the component fuels of the blend would otherwise be exempt under this subsection if the component fuels were sold as separate products. This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. Fuel used for space or water heating for human habitation is not exempt under this section.

(2) The definitions in RCW 82.04.213 and this subsection apply to this section.

(a) "Aircraft fuel" is defined as provided in RCW 82.42.010.

(b) "Biodiesel fuel" is defined as provided in RCW 19.112.010.

(c) "Diesel fuel" is defined as provided in 26 U.S.C. 4083, as amended or renumbered as of January 1, 2006.

~~((b))~~ (d) "Farm fuel user" means: (i) A farmer; or (ii) a person who provides horticultural services for farmers, such as soil preparation services, crop cultivation services, and crop harvesting services.

**Sec. 2.** RCW 82.12.865 and 2006 c 7 s 2 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the nonhighway use of diesel fuel, biodiesel fuel, or aircraft fuel (~~as defined in RCW 82.42.010(5)~~), by a farm fuel user. This exemption applies to a fuel blend if all of the component fuels of the blend would otherwise be exempt under this subsection if the component fuels were acquired as separate products. Fuel used for space or water heating for human habitation is not exempt under this section.

(2) The definitions in RCW 82.08.865 apply to this section.

**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." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rasmussen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5009.

MOTION

The President declared the question before the Senate to be the motion by Senator Rasmussen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5009.

The motion by Senator Rasmussen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5009 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5009, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5009, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 1; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Zarelli - 43

Voting nay: Senator Weinstein - 1

Absent: Senator Kline - 1

Excused: Senators Brown, Kohl-Welles, McAuliffe and Tom - 4

SUBSTITUTE SENATE BILL NO. 5009, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

Under suspension of rules SUBSTITUTE SENATE BILL NO. 5207 was returned to second reading for purpose of an amendment: 5207-S AMH CLIB H3579.2, and passed the House as amended by the House.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) Subject to availability of amounts appropriated for this specific purpose, the joint transportation committee shall:

(a) Administer a consultant study of funding mechanisms for deposit in the freight congestion relief account created in section 2 of this act to fund freight congestion relief investments. At a minimum, the study must: (i) Evaluate federal, state, incentive, and other project specific fees; (ii) analyze current taxes and fees paid by the freight industry and the projects the taxes and fees fund; (iii) assess other nonfreight-related fees and taxes that could be used to pay for freight congestion relief investments; (iv) assess how other states and countries pay for freight congestion relief investments; (v) discuss the various approaches and their impacts on Washington competitiveness in freight movement; (vi) assess the imposition of a shipping container-based fee, port-related user fees, or other funding mechanisms on the demand elasticity of the movement of freight goods through Washington's container ports at various rates as well as forecast diversion of marine cargo at various price points; (vii) measure the return on investment in freight rail and

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

highway-based infrastructure supported by the user fee and its impact on forecast growth in shipping container traffic and the movement of freight goods; and (viii) recommend the structure of a future project recommendation body including its membership, process, and selection criteria. The scope of the work for the study may be expanded to include analysis of other issues relevant to freight congestion relief funding; and

(b) Convene a stakeholder group composed of representatives to work on the consultant study that includes: Two representatives of container ports, one representative of trucking, one representative from railroads, one representative from international shipping, one representative from national shipping, two representatives of organized labor, two representatives of the import/export community, one representative from the department of transportation, one representative from the freight mobility strategic investment board, and other representatives as deemed necessary by the joint transportation committee. The stakeholder group shall work with the selected consultant in: (i) Identifying critical freight congestion relief investments; (ii) identifying alternatives for a dedicated funding source for freight congestion relief investments or user fees to fund specific freight congestion relief investments; and (iii) developing and reviewing a final consultant study.

(2) The consultant's draft report must be submitted to the transportation committees of the legislature by December 15, 2007, with the final findings and recommendations of the report being due prior to the beginning of the 2008 legislative session.

(3) This section expires January 14, 2008.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.68 RCW to read as follows:

The freight congestion relief account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used to provide congestion relief through the improvement of freight rail systems and state highways that function as freight corridors.

**Sec. 3.** RCW 43.84.092 and 2006 c 337 s 11, 2006 c 311 s 23, 2006 c 171 s 10, 2006 c 56 s 10, and 2006 c 6 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Columbia river basin water supply development account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, the energy freedom account, The Evergreen State College capital projects account, the federal forest revolving account, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional mobility grant program account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section."

Correct the title.  
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Murray moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5207.

MOTION

The President declared the question before the Senate to be the motion by Senator Murray that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5207.

The motion by Senator Murray carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5207 by voice vote.

Senators Murray and Swecker spoke in favor of final passage.

MOTION

On motion of Senator Delvin, Senator Zarelli was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5207, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5207, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 13; Absent, 1; Excused, 5.

Voting yea: Senators Berkey, Brandland, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Marr, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Swecker and Weinstein - 30

Voting nay: Senators Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Roach,

Schoesler, Sheldon and Stevens - 13

Absent: Senator Kline - 1

Excused: Senators Brown, Kohl-Welles, McAuliffe, Tom and Zarelli - 5

SUBSTITUTE SENATE BILL NO. 5207, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

Under suspension of rules SECOND SUBSTITUTE SENATE BILL NO. 5470 was returned to second reading for purpose of an amendment: 5470-S2 AMH LANT TANG 065, and passed the House as amended by the House.

Strike everything after the enacting clause and insert the following:

**"PART I - Intent**

**Sec. 101.** RCW 26.09.002 and 1987 c 460 s 2 are each amended to read as follows:

Parents have the responsibility to make decisions and perform other parental functions necessary for the care and growth of their minor children. In any proceeding between parents under this chapter, the best interests of the child shall be the standard by which the court determines and allocates the parties' parental responsibilities. The state recognizes the fundamental importance of the parent-child relationship to the welfare of the child, and that the relationship between the child and each parent should be fostered unless inconsistent with the child's best interests. Residential time and financial support are equally important components of parenting arrangements. The best interests of the child are served by a parenting arrangement that best maintains a child's emotional growth, health and stability, and physical care. Further, the best interest of the child is ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm.

**NEW SECTION. Sec. 102.** A new section is added to chapter 26.09 RCW to read as follows:

The legislature reaffirms the intent of the current law as expressed in RCW 26.09.002. However, after review, the legislature finds that there are certain components of the existing law which do not support the original legislative intent. In order to better implement the existing legislative intent the legislature finds that incentives for parties to reduce family conflict and additional alternative dispute resolution options can assist in reducing the number of contested trials. Furthermore, the legislature finds that the identification of domestic violence as defined in RCW 26.50.010 and the treatment needs of the parties to dissolutions are necessary to improve outcomes for children. When judicial officers have the discretion to tailor individualized resolutions, the legislative intent expressed in RCW 26.09.002 can more readily be achieved. Judicial officers should have the discretion and flexibility to assess each case based on the merits of the individual cases before them.

**PART II - Family Court Provisions**

**NEW SECTION. Sec. 201.** A new section is added to chapter 26.12 RCW to read as follows:

(1) After July 1, 2009, but no later than November 1, 2009, a county may, and to the extent state funding is provided to meet the minimum requirements of the program a county shall, create a program to provide services to all parties involved in proceedings under chapter 26.09 RCW. Minimum components of this program shall include: (a) An individual to serve as an initial point of contact for parties filing petitions for dissolutions

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

or legal separations under chapter 26.09 RCW; (b) informing parties about courthouse facilitation programs and orientations; (c) informing parties of alternatives to filing a dissolution petition, such as marriage counseling; (d) informing parties of alternatives to litigation including counseling, legal separation and mediation services if appropriate; (e) informing parties of supportive family services available in the community; (f) screening for referral for services in the areas of domestic violence as defined in RCW 26.50.010, child abuse, substance abuse, and mental health; and (g) assistance to the court in superior court cases filed under 26.09 RCW.

(2) This program shall not provide legal advice. No attorney-client relationship or privilege is created, by implication or by inference, between persons providing basic information under this section and the participants in the program.

(3) The legislative authority of any county may impose user fees or may impose a surcharge of up to twenty dollars on only those superior court cases filed under this title, or both, to pay for the expenses of this program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section. The program shall provide services to indigent persons at no expense.

(4) Persons who implement the program shall be appointed in the same manner as investigators, stenographers and clerks as described in RCW 26.12.050.

(5) If the county has a program under this section, any petition under RCW 26.09.020 must allege that the moving party met and conferred with the program prior to the filing of the petition.

(6) If the county has a program under this section, parties shall meet and confer with the program prior to participation in mediation under section 301 of this act.

**Sec. 202.** RCW 2.56.180 and 2005 c 282 s 10 are each amended to read as follows:

(1) The administrative office of the courts shall create a handbook explaining the sections of Washington law pertaining to the rights and responsibilities of marital partners to each other and to any children during a marriage and a dissolution of marriage. The handbook may also be provided in videotape or other electronic form.

(2) The handbook created under subsection (1) of this section shall be provided by the county auditor when an individual applies for a marriage license under RCW 26.04.140.

(3) The handbook created under subsection (1) of this section shall also be provided to the petitioner when he or she files a petition for dissolution, and to the respondent, unless the respondent did not file a response, notice of appearance, or any other paper in the case or did not appear in court. The administrative office of the courts shall on an annual basis reimburse the counties for each copy of the handbook that is distributed directly to family law parties under this section, provided that the county submits documentation of the number of handbooks distributed on an annual basis.

(4) The information contained in the handbook created under subsection (1) of this section shall be reviewed and updated annually. The handbook must contain the following information:

(a) Information on prenuptial agreements as contracts and as a means of structuring financial arrangements and other aspects of the marital relationship;

(b) Information on shared parental responsibility for children, including establishing a residential schedule for the child in the event of the dissolution of the marriage;

(c) Information on notice requirements and standards for parental relocation;

(d) Information on child support for minor children;

(e) Information on property rights, including equitable distribution of assets and premarital and postmarital property rights;

(f) Information on spousal maintenance;

(g) Information on domestic violence, child abuse, and neglect, including penalties;

(h) Information on the court process for dissolution;

(i) Information on the effects of dissolution on children;

(j) Information on community resources that are available to separating or divorcing persons and their children.

**Sec. 203.** RCW 26.09.020 and 2001 c 42 s 1 are each amended to read as follows:

(1) A petition in a proceeding for dissolution of marriage, legal separation, or for a declaration concerning the validity of a marriage shall allege:

(a) The last known state of residence of each party, and if a party's last known state of residence is Washington, the last known county of residence;

(b) The date and place of the marriage;

(c) If the parties are separated the date on which the separation occurred;

(d) The names and ages of any child dependent upon either or both spouses and whether the wife is pregnant;

(e) Any arrangements as to the residential schedule of, decision making for, dispute resolution for, and support of the children and the maintenance of a spouse;

(f) A statement specifying whether there is community or separate property owned by the parties to be disposed of;

(g) If the county has established a program under section 201 of this act, a statement affirming that the moving party met and conferred with the program prior to filing the petition;

(h) The relief sought.

(2) Either or both parties to the marriage may initiate the proceeding.

(3) The petitioner shall complete and file with the petition a certificate under RCW 43.70.150 on the form provided by the department of health and the confidential information form under RCW 26.23.050.

(4) Nothing in this section shall be construed to limit or prohibit the ability of parties to obtain appropriate emergency orders.

**Sec. 204.** RCW 36.18.016 and 2006 c 192 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, and any party filing a counterclaim, cross-claim, or third-party claim in any such action, a fee of thirty-six dollars must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of thirty dollars. The clerk of the superior court shall transmit monthly twenty-four dollars of the thirty-dollar fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based services within the county for victims of domestic violence, except for five percent of the six dollars, which may be retained by the court for administrative purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of one hundred twenty-five dollars for a jury of six, or two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed must be charged. For preparing a copy of an instrument on file or of record in the

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

clerk's office without a seal, a fee of fifty cents per page must be charged. When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page must be charged. For copies made on a compact disc, an additional fee of twenty dollars for each compact disc must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For filing a supplemental proceeding, a fee of twenty dollars must be charged.

(8) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(9) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of two dollars.

(10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(11) For clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

(12) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape or other electronic storage medium.

(13) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of twenty dollars must be charged.

(14) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of two hundred dollars must be charged. When the extension of judgment is at the request of the clerk, the two hundred dollar charge may be imposed as court costs under RCW 10.46.190.

(15) A facilitator surcharge of up to twenty dollars must be charged as authorized under RCW 26.12.240.

(16) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(17) For filing a claim of frivolous lien under RCW 60.04.081, a fee of thirty-five dollars must be charged.

(18) For preparation of a change of venue, a fee of twenty dollars must be charged by the originating court in addition to the per page charges in subsection (4) of this section.

(19) A service fee of three dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(20) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(21) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(22) Investment service charge and earnings under RCW 36.48.090 must be charged.

(23) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(24) For filing a request for mandatory arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed two hundred twenty dollars as established by authority of local ordinance. This charge shall be used solely to offset the cost of the mandatory arbitration program.

(25) For filing a request for trial de novo of an arbitration award, a fee not to exceed two hundred fifty dollars as established by authority of local ordinance must be charged.

(26) A public agency may not charge a fee to a law enforcement agency, for preparation, copying, or mailing of certified copies of the judgment and sentence, information, affidavit of probable cause, and/or the notice of requirement to register, of a sex offender convicted in a Washington court, when such records are necessary for risk assessment, preparation of a case for failure to register, or maintenance of a sex offender's registration file.

(27) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of twenty dollars must be charged.

(28) A surcharge of up to twenty dollars may be charged as authorized by section 201 of this act.

The revenue to counties from the fees established in this section shall be deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges of the state prior to July 24, 2005, and no claim shall lie against the state for such benefits.

### PART III - Domestic Violence and Child Abuse

NEW SECTION. Sec. 301. A new section is added to chapter 26.09 RCW to read as follows:

Mediation is generally inappropriate in cases involving domestic violence and child abuse. In order to effectively identify cases where issues of domestic violence and child abuse are present and reduce conflict in dissolution matters: (1) Where appropriate parties shall be provided access to trained domestic violence advocates; and (2) in cases where a victim requests mediation the court may make exceptions and permit mediation, so long as the court makes a finding that mediation is appropriate under the circumstances and the victim is permitted to have a supporting person present during the mediation proceedings.

Sec. 302. RCW 2.56.030 and 2005 c 457 s 7 and 2005 c 282 s 7 are each reenacted and amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district court judge positions under an objective workload analysis. The results of the objective workload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that an objective workload analysis become the basis for creating additional district and superior court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;



ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, ((1997)) 2008, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180;

(20) Administer state funds for improving the operation of the courts and provide support for court coordinating councils, under the direction of the board for judicial administration;

(21)(a) Administer and distribute amounts appropriated from the equal justice subaccount under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a district court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met.

**Sec. 303.** RCW 26.09.191 and 2004 c 38 s 12 are each amended to read as follows:

(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic

violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (a)(iv)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(iv)(A) through (H) of this subsection.

This subsection (2)(a) shall not apply when (c) or (d) of this subsection applies.

(b) The parent's residential time with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; (ii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm; or (iii) the person has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

This subsection (2)(b) shall not apply when (c) or (e) of this subsection applies.

(c) If a parent has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult or a juvenile who has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (d)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (d)(i) through (vii) of this subsection.

(e) There is a rebuttable presumption that a parent who resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in (e)(i) through (ix) of this subsection places a child at risk of abuse or harm when that parent exercises residential time in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (e)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (e)(i) through (vii) of this subsection.

(f) The presumption established in (d) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (C) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child.

(g) The presumption established in (e) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and

the parent residing with the convicted or adjudicated person is appropriate and that parent is able to protect the child in the presence of the convicted or adjudicated person, and (B) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection to have residential time with the child supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who, as an adult, has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(k) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under (d) of this subsection has been rebutted and supervised residential time has occurred for at least two years with no further arrests or

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of residential time between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised residential time has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of residential time between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. The limitations shall also be reasonably calculated to provide for the safety of the parent who may be at risk of physical, sexual, or emotional abuse or harm that could result if the parent has contact with the parent requesting residential time. The limitations the court may impose include, but are not limited to: Supervised contact between the child and the parent or completion of relevant counseling or treatment. If the court expressly finds based on the evidence that limitations on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a

preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits residential time under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

(n) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection, or if the court expressly finds that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply.

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

(a) A parent's neglect or substantial nonperformance of parenting functions;

(b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;

(c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;

(d) The absence or substantial impairment of emotional ties between the parent and the child;

(e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;

(f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or

(g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(4) In cases involving allegations of limiting factors under subsection (2)(a)(ii) and (iii) of this section, both parties shall be screened to determine the appropriateness of a comprehensive assessment regarding the impact of the limiting factor on the child and the parties.

(5) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

~~((5))~~ (6) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure.

~~((6))~~ (7) For the purposes of this section, a parent's child means that parent's natural child, adopted child, or stepchild.

NEW SECTION. Sec. 304. A new section is added to chapter 26.09 RCW to read as follows:

Before entering a permanent parenting plan, the court shall determine the existence of any information and proceedings relevant to the placement of the child that are available in the judicial information system and databases.

Sec. 305. RCW 26.12.177 and 2005 c 282 s 30 are each amended to read as follows:

(1) All guardians ad litem and investigators appointed under this title must comply with the training requirements established under RCW 2.56.030(15), prior to their appointment in cases

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

under Title 26 RCW, except that volunteer guardians ad litem or court-appointed special advocates may comply with alternative training requirements approved by the administrative office of the courts that meet or exceed the statewide requirements. In cases involving allegations of limiting factors under RCW 26.09.191, the guardians ad litem and investigators appointed under this title must have additional relevant training under RCW 2.56.030(15) and as recommended under section 306 of this act, when it is available.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem and investigators under this title. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem and investigators under this title shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information as specified in RCW 26.12.175(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem lacks the necessary expertise for the proceeding, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(d) Under this section, within either registry referred to in (a) of this subsection, a subregistry may be created that consists of guardians ad litem under contract with the department of social and health services' division of child support. Guardians ad litem on such a subregistry shall be selected and appointed in state-initiated paternity cases only.

(e) The superior court shall remove any person from the guardian ad litem registry who misrepresents his or her qualifications pursuant to a grievance procedure established by the court.

(3) The rotational registry system shall not apply to court-appointed special advocate programs.

NEW SECTION. Sec. 306. A new section is added to chapter 2.53 RCW to read as follows:

(1)(a) The legislature requests that the supreme court convene and support a task force to establish statewide protocols for dissolution cases.

(b) The task force shall develop: (i) Clear and concise dispute resolution procedures; (ii) in conjunction with the office of crime victims advocacy, a sexual assault training curriculum; (iii) consistent standards for parenting evaluators; and (iv) a domestic violence training curriculum for individuals making evaluations in dissolution cases. The task force shall make recommendations concerning specialized evaluators for dissolution cases, dissolution forms and procedures, and fees.

(c) The task force shall also study issues related to: (i) Venue for filing and modifying petitions; and (ii) the program established under section 201 of this act, including but not limited to: (A) the minimum components of the program; (B) the extent of the program; (C) the administration of the program; (D) the handling of confidential information obtained; and (E) the selection of appropriate short screen tools to be utilized in the administration of the program.

(2) The governor shall appoint the following members of the task force:

(a) A representative of the office of crime victims advocacy;

(b) A professor of law specializing in family law;

(c) A representative from a statewide domestic violence advocacy group;

(d) A representative from a community sexual assault program;

(e) Two noncustodial parents with at least one representing the interests of low-income noncustodial parents; and

(f) Two custodial parents with at least one representing the interests of low-income custodial parents.

(3) The chief justice of the supreme court is requested to appoint the following members of the task force:

(a) Two representatives from the superior court judges association, including a superior court judge and a court commissioner who is familiar with dissolution issues;

(b) A representative from the administrative office of the courts;

(c) A representative from the Washington state bar association's family law executive committee;

(d) A representative from a qualified legal aid provider that receives funding from the office of civil legal aid;

(e) A representative of the Washington state association of county clerks; and

(f) A guardian ad litem.

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

(5) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives, with at least one member.

(6) Membership of the task force may also include members of the civil legal aid oversight committee, including but not limited to the legislative members of the committee.

(7) The task force shall carefully consider all input received from interested organizations and individuals during the task force process.

(8) The task force may form an executive committee, create subcommittees, designate alternative representatives, and define other procedures, as needed, for operation of the task force.

(9) Legislative members of the task force shall be reimbursed for travel expenses under RCW 44.04.120. Nonlegislative members, except those representing an employee or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(10) The task force shall present preliminary findings and conclusions to the governor's office, the supreme court, and the appropriate committees of the legislature by September 1, 2008. A final report and recommendations, including recommendations for legislative action, if necessary, and recommendations regarding the program under section 201 of this act, shall be completed by December 1, 2008.

(11) This section expires June 30, 2009.

#### PART IV - Additional Services

NEW SECTION. Sec. 401. A new section is added to chapter 26.09 RCW to read as follows:

In order to provide judicial officers with better information and to facilitate decision making which allows for the protection of children from physical, mental, or emotional harm and in order to facilitate consistent healthy contact between both parents and their children:

(1) Parties and witnesses who require the assistance of interpreters shall be provided access to qualified interpreters pursuant to chapter 2.42 or 2.43 RCW. To the extent practicable and within available resources, interpreters shall also be made available at dissolution-related proceedings.

(2) Parties and witnesses who require literacy assistance shall be referred to the multipurpose service centers established in chapter 28B.04 RCW.

(3) In matters involving guardian ad litem, the court shall specify the hourly rate the guardian ad litem may charge for his or her services, and shall specify the maximum amount the guardian ad litem may charge without additional review. Counties may, and to the extent state funding is provided therefor counties shall, provide indigent parties with guardian ad litem services at a reduced or waived fee.

(4) Parties may request to participate by telephone or interactive videoconference. The court may allow telephonic or interactive videoconference participation of one or more parties

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

at any proceeding in its discretion. The court may also allow telephonic or interactive videoconference participation of witnesses.

(5) In cases involving domestic violence or child abuse, if residential time is ordered, the court may:

(a) Order exchange of a child to occur in a protected setting;

(b) Order residential time supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the supervisor is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor if the court determines, after a hearing, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child. If the court allows a family or household member to supervise residential time, the court shall establish conditions to be followed during residential time.

(6) In cases in which the court finds that the parties do not have a satisfactory history of cooperation or there is a high level of parental conflict, the court may order the parties to use supervised visitation and safe exchange centers or alternative safe locations to facilitate the exercise of residential time.

#### PART V - Mediation

**Sec. 501.** RCW 26.09.015 and 2005 c 172 s 17 are each amended to read as follows:

(1) In any proceeding under this chapter, the matter may be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage is dissolved. The mediator shall use his or her best efforts to effect a settlement of the dispute.

(2)(a) Each superior court may make available a mediator. The court shall use the most cost-effective mediation services that are readily available unless there is good cause to access alternative providers. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(b) In any proceeding involving issues relating to residential time or other matters governed by a parenting plan, the matter may be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. Counties may, and to the extent state funding is provided therefor counties shall, provide both predecree and postdecree mediation at reduced or waived fee to the parties within one year of the filing of the dissolution petition.

(3)(a) Mediation proceedings under this chapter shall be governed in all respects by chapter 7.07 RCW, except as follows:

(i) Mediation communications in postdecree mediations mandated by a parenting plan are admissible in subsequent proceedings for the limited purpose of proving:

(A) Abuse, neglect, abandonment, exploitation, or unlawful harassment as defined in RCW 9A.46.020(1), of a child;

(B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1), of a family or household member as defined in RCW 26.50.010(2); or

(C) That a parent used or frustrated the dispute resolution process without good reason for purposes of RCW 26.09.184(3)(d).

(ii) If a postdecree mediation-arbitration proceeding is required pursuant to a parenting plan and the same person acts as both mediator and arbitrator, mediation communications in the mediation phase of such a proceeding may be admitted during the arbitration phase, and shall be admissible in the judicial review of such a proceeding under RCW 26.09.184(3)(e) to the extent necessary for such review to be effective.

(b) None of the exceptions under (a)(i) and (ii) of this subsection shall subject a mediator to compulsory process to testify except by court order for good cause shown, taking into consideration the need for the mediator's testimony and the interest in the mediator maintaining an appearance of impartiality. If a mediation communication is not privileged under (a)(i) of this subsection or that portion of (a)(ii) of this subsection pertaining to judicial review, only the portion of the communication necessary for the application of the exception may be admitted, and such admission of evidence shall not render any other mediation communication discoverable or admissible except as may be provided in chapter 7.07 RCW.

(4) The mediator shall assess the needs and interests of the child or children involved in the controversy and may interview the child or children if the mediator deems such interview appropriate or necessary.

(5) Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for the parties by the mediator on the day set for mediation or any time thereafter designated by the court.

#### PART VI - Residential Time

**Sec. 601.** RCW 26.09.184 and 1991 c 367 s 7 are each amended to read as follows:

(1) OBJECTIVES. The objectives of the permanent parenting plan are to:

(a) Provide for the child's physical care;

(b) Maintain the child's emotional stability;

(c) Provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for future modifications to the permanent parenting plan;

(d) Set forth the authority and responsibilities of each parent with respect to the child, consistent with the criteria in RCW 26.09.187 and 26.09.191;

(e) Minimize the child's exposure to harmful parental conflict;

(f) Encourage the parents, where appropriate under RCW 26.09.187 and 26.09.191, to meet their responsibilities to their minor children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and

(g) To otherwise protect the best interests of the child consistent with RCW 26.09.002.

(2) CONTENTS OF THE PERMANENT PARENTING PLAN. The permanent parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child.

(3) CONSIDERATION IN ESTABLISHING THE PERMANENT PARENTING PLAN. In establishing a permanent parenting plan, the court may consider the cultural heritage and religious beliefs of a child.

(4) DISPUTE RESOLUTION. A process for resolving disputes, other than court action, shall be provided unless precluded or limited by RCW 26.09.187 or 26.09.191. A dispute resolution process may include counseling, mediation, or arbitration by a specified individual or agency, or court action. In the dispute resolution process:

(a) Preference shall be given to carrying out the parenting plan;

(b) The parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;

(c) A written record shall be prepared of any agreement reached in counseling or mediation and of each arbitration award and shall be provided to each party;

(d) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court shall award attorneys' fees and financial sanctions to the prevailing parent;

(e) The parties have the right of review from the dispute resolution process to the superior court; and

(f) The provisions of (a) through (e) of this subsection shall be set forth in the decree.

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

~~((4))~~ (5) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) The plan shall allocate decision-making authority to one or both parties regarding the children's education, health care, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the child in these specified areas, or in other areas, into their plan, consistent with the criteria in RCW 26.09.187 and 26.09.191. Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

(b) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.

(c) When mutual decision making is designated but cannot be achieved, the parties shall make a good-faith effort to resolve the issue through the dispute resolution process.

~~((5))~~ (6) RESIDENTIAL PROVISIONS FOR THE CHILD. The plan shall include a residential schedule which designates in which parent's home each minor child shall reside on given days of the year, including provision for holidays, birthdays of family members, vacations, and other special occasions, consistent with the criteria in RCW 26.09.187 and 26.09.191.

~~((6))~~ (7) PARENTS' OBLIGATION UNAFFECTED. If a parent fails to comply with a provision of a parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision in a parenting plan or a child support order may result in a finding of contempt of court, under RCW 26.09.160.

~~((7))~~ (8) PROVISIONS TO BE SET FORTH IN PERMANENT PARENTING PLAN. The permanent parenting plan shall set forth the provisions of subsections ~~((3))~~ (4)(a) through (c), ~~((4))~~ (5)(b) and (c), and ~~((6))~~ (7) of this section.

**Sec. 602.** RCW 26.09.015 and 2005 c 172 s 17 are each amended to read as follows:

(1) In any proceeding under this chapter, the matter may be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage is dissolved. The mediator shall use his or her best efforts to effect a settlement of the dispute.

(2) Each superior court may make available a mediator. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(3)(a) Mediation proceedings under this chapter shall be governed in all respects by chapter 7.07 RCW, except as follows:

(i) Mediation communications in postdecree mediations mandated by a parenting plan are admissible in subsequent proceedings for the limited purpose of proving:

(A) Abuse, neglect, abandonment, exploitation, or unlawful harassment as defined in RCW 9A.46.020(1), of a child;

(B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1), of a family or household member as defined in RCW 26.50.010(2); or

(C) That a parent used or frustrated the dispute resolution process without good reason for purposes of RCW 26.09.184~~((3))~~ (4)(d).

(ii) If a postdecree mediation-arbitration proceeding is required pursuant to a parenting plan and the same person acts as both mediator and arbitrator, mediation communications in the mediation phase of such a proceeding may be admitted during the arbitration phase, and shall be admissible in the judicial review of such a proceeding under RCW 26.09.184~~((3))~~ (4)(e) to the extent necessary for such review to be effective.

(b) None of the exceptions under (a)(i) and (ii) of this subsection shall subject a mediator to compulsory process to

testify except by court order for good cause shown, taking into consideration the need for the mediator's testimony and the interest in the mediator maintaining an appearance of impartiality. If a mediation communication is not privileged under (a)(i) of this subsection or that portion of (a)(ii) of this subsection pertaining to judicial review, only the portion of the communication necessary for the application of the exception may be admitted, and such admission of evidence shall not render any other mediation communication discoverable or admissible except as may be provided in chapter 7.07 RCW.

(4) The mediator shall assess the needs and interests of the child or children involved in the controversy and may interview the child or children if the mediator deems such interview appropriate or necessary.

(5) Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for the parties by the mediator on the day set for mediation or any time thereafter designated by the court.

**Sec. 603.** RCW 26.09.187 and 1989 c 375 s 10 are each amended to read as follows:

(1) DISPUTE RESOLUTION PROCESS. The court shall not order a dispute resolution process, except court action, when it finds that any limiting factor under RCW 26.09.191 applies, or when it finds that either parent is unable to afford the cost of the proposed dispute resolution process. If a dispute resolution process is not precluded or limited, then in designating such a process the court shall consider all relevant factors, including:

(a) Differences between the parents that would substantially inhibit their effective participation in any designated process;

(b) The parents' wishes or agreements and, if the parents have entered into agreements, whether the agreements were made knowingly and voluntarily; and

(c) Differences in the parents' financial circumstances that may affect their ability to participate fully in a given dispute resolution process.

(2) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve agreements of the parties allocating decision-making authority, or specifying rules in the areas listed in RCW 26.09.184~~((4))~~ (5)(a), when it finds that:

(i) The agreement is consistent with any limitations on a parent's decision-making authority mandated by RCW 26.09.191; and

(ii) The agreement is knowing and voluntary.

(b) SOLE DECISION-MAKING AUTHORITY. The court shall order sole decision-making to one parent when it finds that:

(i) A limitation on the other parent's decision-making authority is mandated by RCW 26.09.191;

(ii) Both parents are opposed to mutual decision making;

(iii) One parent is opposed to mutual decision making, and such opposition is reasonable based on the criteria in (c) of this subsection;

(c) MUTUAL DECISION-MAKING AUTHORITY. Except as provided in (a) and (b) of this subsection, the court shall consider the following criteria in allocating decision-making authority:

(i) The existence of a limitation under RCW 26.09.191;

(ii) The history of participation of each parent in decision making in each of the areas in RCW 26.09.184~~((4))~~ (5)(a);

(iii) Whether the parents have a demonstrated ability and desire to cooperate with one another in decision making in each of the areas in RCW 26.09.184~~((4))~~ (5)(a); and

(iv) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions.

(3) RESIDENTIAL PROVISIONS.

(a) The court shall make residential provisions for each child which encourage each parent to maintain a loving, stable, and nurturing relationship with the child, consistent with the child's developmental level and the family's social and economic circumstances. The child's residential schedule shall be consistent with RCW 26.09.191. Where the limitations of RCW

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

26.09.191 are not dispositive of the child's residential schedule, the court shall consider the following factors:

(i) The relative strength, nature, and stability of the child's relationship with each parent (~~including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child~~);

(ii) The agreements of the parties, provided they were entered into knowingly and voluntarily;

(iii) Each parent's past and potential for future performance of parenting functions as defined in RCW 26.09.004(3), including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;

(iv) The emotional needs and developmental level of the child;

(v) The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;

(vi) The wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and

(vii) Each parent's employment schedule, and shall make accommodations consistent with those schedules.

Factor (i) shall be given the greatest weight.

(b) ~~Where the limitations of RCW 26.09.191 are not dispositive, the court may order that a child frequently alternate his or her residence between the households of the parents for brief and substantially equal intervals of time (only if the court finds the following:~~

~~(i) No limitation exists under RCW 26.09.191;~~

~~(ii)(A) The parties have agreed to such provisions and the agreement was knowingly and voluntarily entered into; or~~

~~(B) The parties have a satisfactory history of cooperation and shared performance of parenting functions; the parties are available to each other, especially in geographic proximity, to the extent necessary to ensure their ability to share performance of the parenting functions; and~~

~~(iii) The provisions are in the best interests of the child) if such provision is in the best interests of the child. In determining whether such an arrangement is in the best interests of the child, the court may consider the parties geographic proximity to the extent necessary to ensure the ability to share performance of the parenting functions.~~

~~(c) For any child, residential provisions may contain any reasonable terms or conditions that facilitate the orderly and meaningful exercise of residential time by a parent, including but not limited to requirements of reasonable notice when residential time will not occur.~~

**Sec. 604.** RCW 26.09.197 and 1987 c 460 s 14 are each amended to read as follows:

After considering the affidavit required by RCW 26.09.194(1) and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child. In making this determination, the court shall give particular consideration to:

(1) ~~(Which parent has taken greater responsibility during the last twelve months for performing parenting functions relating to the daily needs of the child) The relative strength, nature, and stability of the child's relationship with each parent;~~ and

(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

#### PART VII - Data Tracking

**NEW SECTION. Sec. 701.** A new section is added to chapter 26.09 RCW to read as follows:

The parties to dissolution matters shall file with the clerk of the court the residential time summary report. The summary report shall be on the form developed by the administrative office of the courts in consultation with the department of social and health services division of child support. The parties must

complete the form and file the form with the court order. The clerk of the court must forward the form to the division of child support on at least a monthly basis.

**NEW SECTION. Sec. 702.** A new section is added to chapter 26.18 RCW to read as follows:

(1) The administrative office of the courts in consultation with the department of social and health services, division of child support, shall develop a residential time summary report form to provide for the reporting of summary information in every case in which residential time with children is to be established or modified.

(2) The residential time summary report must include at a minimum: A breakdown of residential schedules with a reasonable degree of specificity regarding actual time with each parent, including enforcement practices, representation status of the parties, whether domestic violence, child abuse, chemical dependency, or mental health issues exist, and whether the matter was agreed or contested.

(3) The division of child support shall compile and electronically transmit the information in the residential time summary reports to the administrative office of the courts for purposes of tracking residential time awards by parent, enforcement practices, representation status of the parties, the existence of domestic violence, child abuse, chemical dependency, or mental health issues and whether the matter was agreed or contested.

(4) The administrative office of the courts shall report the compiled information, organized by each county, on at least an annual basis. The information shall be itemized by quarter. These reports shall be made publicly available through the judicial information public access services and shall not contain any personal identifying information of parties in the proceedings.

#### PART VIII - Miscellaneous

**NEW SECTION. Sec. 801.** Part headings used in this act are not any part of the law.

**NEW SECTION. Sec. 802.** If specific funding for the purposes of section 306 of this act, referencing section 306 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, section 306 of this act is null and void.

**NEW SECTION. Sec. 803.** If specific funding for the purposes of section 701 of this act, referencing section 701 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, section 701 of this act is null and void.

**NEW SECTION. Sec. 804.** If specific funding for the purposes of section 702 of this act, referencing section 702 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, section 702 of this act is null and void.

**NEW SECTION. Sec. 805.** (1) Sections 201 and 204 of this act take effect July 1, 2009.

(2) Section 202 of this act takes effect January 1, 2008.

(3) Section 501 of this act takes effect January 1, 2009."

Correct the title.  
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5470.

MOTION

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5470.

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5470 by voice vote.

Senators Hargrove and Kastama spoke in favor of final passage.

## MOTION

On motion of Senator Hatfield, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5470, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5470, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Weinstein - 44

Excused: Senators Brown, Kline, Kohl-Welles, Tom and Zarelli - 5

SUBSTITUTE SENATE BILL NO. 5470, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

Under suspension of rules SECOND SUBSTITUTE SENATE BILL NO. 5790 was returned to second reading for purpose of an amendment: 5790-S2 AMH QUAL H3582.1, and passed the House as amended by the House.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature finds that student access to programs offered at skill centers can help prepare them for careers, apprenticeships, and postsecondary education. The legislature further finds that current limits on how school districts and skill centers report full-time equivalent students and the time students are served provide a disincentive for school districts to send their students to skill centers. The legislature further finds that there are barriers to providing access to students in rural and remote areas but that there are opportunities to do so with satellite and branch campus programs, distance and online learning programs, and collaboration with higher education, business, and labor. The legislature further finds that skill centers provide opportunities for dropout prevention and retrieval programs by offering programs that accommodate students' work schedules and provide credit retrieval opportunities. The legislature further finds that implementing the recommendations from the study by the workforce training and education coordinating board will enhance skill center programs and student access to those programs.

**NEW SECTION. Sec. 2.** A skill center is a regional career and technical education partnership established to provide access to comprehensive industry-defined career and technical programs of study that prepare students for careers, employment, apprenticeships, and postsecondary education. A

skill center is operated by a host school district and governed by an administrative council in accordance with a cooperative agreement.

**NEW SECTION. Sec. 3.** Beginning in the 2007-08 school year and thereafter, students attending skill centers shall be funded for all classes at the skill center and the sending districts, up to one and six-tenths full-time equivalents or as determined in the omnibus appropriations act. The office of the superintendent of public instruction shall develop procedures to ensure that the school district and the skill center report no student for more than one and six-tenths full-time equivalent students combining both their high school enrollment and skill center enrollment. Additionally, the office of the superintendent of public instruction shall develop procedures for determining the appropriate share of the full-time equivalent enrollment count between the resident high school and skill center.

**NEW SECTION. Sec. 4.** (1) The office of the superintendent of public instruction shall review and revise the guidelines for skill centers to encourage skill center programs. The superintendent, in cooperation with the workforce training and education coordinating board, skill center directors, and the Washington association for career and technical education, shall review and revise the existing skill centers' policy guidelines and create and adopt rules governing skill centers as follows:

(a) The threshold enrollment at a skill center shall be revised so that a skill center program need not have a minimum of seventy percent of its students enrolled on the skill center core campus in order to facilitate serving rural students through expansion of skill center programs by means of satellite programs or branch campuses;

(b) The developmental planning for branch campuses shall be encouraged. Underserved rural areas or high-density areas may partner with an existing skill center to create satellite programs or a branch campus. Once a branch campus reaches sufficient enrollment to become self-sustaining, it may become a separate skill center or remain an extension of the founding skill center; and

(c) Satellite and branch campus programs shall be encouraged to address high-demand fields.

(2) Rules adopted under this section shall allow for innovative models of satellite and branch campus programs, and such programs shall not be limited to those housed in physical buildings.

(3) The superintendent of public instruction shall develop and deliver a ten-year capital plan for legislative review before implementation.

(4) Subject to available funding, the superintendent shall:

(a) Conduct approved feasibility studies for serving noncooperative rural and high-density area students in their geographic areas; and

(b) Develop a statewide master plan that identifies standards and resources needed to create a technology infrastructure for connecting all skill centers to the K-20 network.

**NEW SECTION. Sec. 5.** Subject to available funding, skill centers shall provide access to late afternoon and evening sessions and summer school programs, to rural and high-density area students aligned with regionally identified high-demand occupations. When possible, the programs shall be specifically targeted for credit retrieval, dropout prevention and intervention for at-risk students, and retrieval of dropouts. Skill centers that receive funding for these activities must participate in an evaluation that is designed to quantify results and identify best practices, collaborate with local community partners in providing a comprehensive program, and provide matching funds.

**NEW SECTION. Sec. 6.** (1) The superintendent of public instruction shall establish and support skill centers of excellence in key economic sectors of regional significance. The superintendent shall broker the development of skill centers of excellence and identify their roles in developing curriculum and methodologies for reporting skill center course equivalencies for purposes of high school graduation.

(2) Once the skill centers of excellence are established, the superintendent of public instruction shall develop and seek funding for a running start for career and technical education



ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

grant program to develop and implement career and technical programs of study targeted to regionally determined high-demand occupations. Grant recipients should be partnerships of skill centers of excellence, community college centers of excellence, tech-prep programs, industry advisory committees, area workforce development councils, and skill panels in the related industry. Grant recipients should be expected to develop and assist in the replication of model career and technical education programs of study. The career and technical education programs of study developed should be consistent with the expectations in the applicable federal law.

**NEW SECTION. Sec. 7.** The superintendent of public instruction shall assign at least one full-time equivalent staff position within the office of the superintendent of public instruction to serve as the director of skill centers.

**Sec. 8.** RCW 84.52.068 and 2005 c 514 s 1104 are each amended to read as follows:

(1) A portion of the proceeds of the state property tax levy shall be deposited into the student achievement fund as provided in this section.

(2)(a) The amount of the deposit shall be based upon the average number of full-time equivalent students in the school districts during the previous school year as reported to the office of the superintendent of public instruction by August 31st of the previous school year.

(b) For the 2004-2005 through 2007-2008 school years, an annual amount equal to two hundred fifty-four dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund.

(c) For the 2008-2009 school year, an annual amount equal to two hundred sixty-five dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund.

(d) For the 2009-2010 school year, an annual amount equal to two hundred seventy-seven dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund.

(e) For the 2010-2011 school year and each year thereafter, an annual amount equal to two hundred seventy-eight dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund.

(f) The school district annual amounts shall be deposited based on the monthly apportionment schedule as defined in RCW 28A.510.250. The office of the superintendent of public instruction shall notify the department of the monthly amounts to be deposited into the student achievement fund to meet the apportionment schedule. The superintendent of public instruction shall ensure that moneys generated by skill center students is returned to skill centers.

**NEW SECTION. Sec. 9.** Sections 2 through 7 of this act constitute a new chapter in Title 28A RCW." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5790.

Senator Hobbs spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5790.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5790 by voice vote.

MOTION

On motion of Senator Regala, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5790, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5790, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Weinstein - 44

Excused: Senators Brown, Kohl-Welles, Prentice, Tom and Zarelli - 5

SECOND SUBSTITUTE SENATE BILL NO. 5790, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House insists on its position regarding the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1909 and asks Senate to recede therefrom. and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1909.

The President declared the question before the Senate to be motion by Senator Jacobsen that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1909.

The motion by Senator Jacobsen carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 1909.

MOTION

On motion of Senator Jacobsen, the rules were suspended and Substitute House Bill No. 1909 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1909, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Orcutt, B. Sullivan, Roach, Blake, Takko, Pearson, Kristiansen and Hinkle)

Protecting from the theft of specialized forest products.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following striking amendment by Senators Jacobsen and Morton be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 76.48.130 and 1995 c 366 s 13 are each amended to read as follows:

(1) A person who violates a provision of this chapter, other than the provisions contained in RCW 76.48.120, as now or hereafter amended, is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not to exceed one year or by both a fine and imprisonment.

(2) In any prosecution for a violation of this chapter's requirements to obtain or possess a specialized forest products permit or true copy thereof, an authorization, sales invoice, or bill of lading, it is an affirmative defense, if established by the defendant by a preponderance of the evidence, that: (a) The specialized forest products were harvested from the defendant's own land; or (b) the specialized forest products were harvested with the permission of the landowner.

**NEW SECTION. Sec. 2.** (1) The specialized forest products work group is established. The work group must consist of appropriate representation from: The department of natural resources; county sheriffs; county prosecutors; industrial and small forest landowners; tribes; recreational and professional wood carvers; cedar and specialty wood processors; and other appropriate persons invited by the commissioner of public lands.

(2) The specialized forest products work group must review the current specialized forest products statute, chapter 76.48 RCW, as well as applicable theft laws. The specialized forest products work group must evaluate the statute, as well as its application, and make recommendations, if any, to ensure that the specialized forest products requirements: Provide reasonable tools for law enforcement and reasonably protect landowners from theft; are not unduly burdensome to harvesters, those possessing or transporting specialized forest products, or cedar or specialty wood processors or buyers; are clear and may be readily understood by law enforcement and the public; and are administered and enforced consistently throughout the state.

(3) The specialized forest products work group must be staffed by the department of natural resources.

(4) The specialized forest products work group must provide a report to the appropriate committees of the legislature containing its recommendations, as well as draft legislation implementing its recommendations, by December 1, 2007.

(5) This section expires July 1, 2008.

**Sec. 3.** RCW 76.48.020 and 2005 c 401 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) "Authorization" means a properly completed preprinted form authorizing the transportation or possession of Christmas trees which contains the information required by RCW 76.48.080, a sample of which is filed before the harvesting occurs with the sheriff of the county in which the harvesting is to occur.

(2) "Bill of lading" means a written or printed itemized list or statement of particulars pertinent to the transportation or possession of a specialized forest product.

(3) "Cascara bark" means the bark of a Cascara tree.

(4) "Cedar processor" means any person who purchases, takes, or retains possession of cedar products or cedar salvage for later sale in the same or modified form following removal and delivery from the land where harvested.

(5) "Cedar products" means cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.

(6) "Cedar salvage" means cedar chunks, slabs, stumps, and logs having a volume greater than one cubic foot and being harvested or transported from areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government.

(7) "Christmas trees" means any evergreen trees or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species.

(8) "Cut or picked evergreen foliage," commonly known as brush, means evergreen boughs, huckleberry foliage, salal, fern, Oregon grape, rhododendron, mosses, bear grass, scotch broom (*Cytisus scoparius*), and other cut or picked evergreen products. "Cut or picked evergreen foliage" does not mean cones, berries, any foliage that does not remain green year-round, or seeds.

(9) "Harvest" means to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product (a) from its physical connection or contact with the land or vegetation upon which it is or was growing or (b) from the position in which it is lying upon the land.

(10) "Harvest site" means each location where one or more persons are engaged in harvesting specialized forest products close enough to each other that communication can be conducted with an investigating law enforcement officer in a normal conversational tone.

(11) "Huckleberry" means the following species of edible berries, if they are not nursery grown: *Vaccinium membranaceum*, *Vaccinium deliciosum*, *Vaccinium ovatum*, *Vaccinium parvifolium*, *Vaccinium globulare*, *Vaccinium ovalifolium*, *Vaccinium alaskaense*, *Vaccinium caespitosum*, *Vaccinium occidentale*, *Vaccinium uliginosum*, *Vaccinium myrtillus*, and *Vaccinium scoparium*.

(12) "Landowner" means, with regard to real property, the private owner, the state of Washington or any political subdivision, the federal government, or a person who by deed, contract, or lease has authority to harvest and sell forest products of the property. "Landowner" does not include the purchaser or successful high bidder at a public or private timber sale.

~~((+2))~~ (13) "Native ornamental trees and shrubs" means any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.

~~((+3))~~ (14) "Permit area" means a designated tract of land that may contain single or multiple harvest sites.

~~((+4))~~ (15) "Person" includes the plural and all corporations, foreign or domestic, copartnerships, firms, and associations of persons.

~~((+5))~~ (16) "Processed cedar products" means cedar shakes, shingles, fence posts, hop poles, pickets, stakes, rails, or rounds less than one foot in length.

~~((+6))~~ (17) "Sheriff" means, for the purpose of validating specialized forest products permits, the county sheriff, deputy sheriff, or an authorized employee of the sheriff's office or an agent of the office.

~~((+7))~~ (18) "Specialized forest products" means Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, huckleberries, cedar products, cedar salvage, processed cedar products, specialty wood, wild edible mushrooms, and Cascara bark.

~~((+8))~~ (19) "Specialized forest products permit" means a printed document in a form printed by the department of natural resources, or true copy thereof, that is signed by a landowner or his or her authorized agent or representative, referred to in this chapter as "permitters" and validated by the county sheriff and authorizes a designated person, referred to in this chapter as "permittee," who has also signed the permit, to harvest and transport a designated specialized forest product from land owned or controlled and specified by the permitter and that is located in the county where the permit is issued.

~~((+9))~~ (20) "Specialty wood" means wood that is:

(a) In logs less than eight feet in length, chunks, slabs, stumps, or burls; and

(b) One or more of the following:

(i) Of the species western red cedar, Englemann spruce, Sitka spruce, big leaf maple, or western red alder;

(ii) Without knots in a portion of the surface area at least twenty-one inches long and seven and a quarter inches wide when measured from the outer surface toward the center; or

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

POINT OF INQUIRY

(iii) Suitable for the purposes of making musical instruments or ornamental boxes.

~~((21))~~ (21) "Specialty wood buyer" means the first person that receives any specialty wood product after it leaves the harvest site.

~~((22))~~ (22) "Specialty wood processor" means any person who purchases, takes, or retains possession of specialty wood products or specialty wood salvage for later sale in the same or modified form following removal and delivery from the land where harvested.

~~((23))~~ (23) "Transportation" means the physical conveyance of specialized forest products outside or off of a harvest site by any means.

~~((24))~~ (24) "True copy" means a replica of a validated specialized forest products permit as reproduced by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the specialized forest products permit. A copy is made true by the permittee or the permittee and permittor signing in the space provided on the face of the copy. A true copy will be effective until the expiration date of the specialized forest products permit unless the permittee or the permittee and permittor specify an earlier date. A permittor may require the actual signatures of both the permittee and permittor for execution of a true copy by so indicating in the space provided on the original copy of the specialized forest products permit. A permittee, or, if so indicated, the permittee and permittor, may condition the use of the true copy to harvesting only, transportation only, possession only, or any combination thereof.

~~((25))~~ (25) "Wild edible mushrooms" means edible mushrooms not cultivated or propagated by artificial means.

**Sec. 4.** RCW 76.48.030 and 1995 c 366 s 2 are each amended to read as follows:

It is unlawful for any person to:

(1) Harvest specialized forest products as described in RCW 76.48.020, in the quantities specified in RCW 76.48.060, without first obtaining a validated specialized forest products permit;

(2) Engage in activities or phases of harvesting specialized forest products not authorized by the permit; ~~((or))~~

(3) Harvest specialized forest products in any lesser quantities than those specified in RCW 76.48.060, as now or hereafter amended, without first obtaining permission from the landowner or his or her duly authorized agent or representative; or

(4) Harvest huckleberries in any amount using a rake, mechanical device, or any other method that damages the huckleberry bush.

**NEW SECTION. Sec. 5.** (1) By December 1, 2007, the department of natural resources must review the uses of and demands on the state's wild huckleberry resource, and estimate whether the current consumptive uses of wild huckleberries are sustainable and compatible among the various consumptive users of the resource. Based upon this review, the department of natural resources must deliver recommendations to the appropriate committees of the legislature as to whether a state-permitting requirement to harvest, possess, or transport wild huckleberries would remedy any problems identified during the review, whether the specialized forest products permit would be the most effective permitting program to utilize, and what permit conditions or requirements should be placed on the harvest, possession, or transportation of wild huckleberries.

(2) This section expires July 1, 2008."

#### MOTION

Senator Jacobsen moved that the following amendment by Senator Jacobsen to the striking amendment be adopted.

On page 4, line 15, of the amendment before "cedar products" delete "huckleberries."

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

Senator Honeyford: "Would Senator Jacobsen yield to a question? Thank you. Does this still provide protection for the Native Americans huckleberry pickings so that people aren't going in with rakes and ruining the vines and things like that?"

Senator Jacobsen: "What's going to happen in the striking amendment it's going to make rakes or other items that damage huckleberries illegal to use but there wouldn't be any permit required."

The President declared the question before the Senate to be the adoption of the amendment by Senator Jacobsen on page 4, line 15 to the striking amendment to Substitute House Bill No. 1909.

The motion by Senator Jacobsen carried and the amendment to the striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Jacobsen and Morton as amended to Substitute House Bill No. 1909.

The motion by Senator Jacobsen carried and the striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted.

On page 1, line 1 of the title, after "products;" strike the remainder of the title and insert "amending RCW 76.48.130, 76.48.020, and 76.48.030; creating new sections; and providing expiration dates."

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 1909 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen, Roach and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1909 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1909 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 46

Excused: Senators Brown, Kohl-Welles and Zarelli - 3

**SUBSTITUTE HOUSE BILL NO. 1909** as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Regala: "Thank you Mr. President. Well, today all of our desks are adorned with an American Flag and you might notice that mine's at half staff. Several people have asked me

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

why that is and so I wanted to explain. Mr. President, when I was born our nation and indeed the entire world was at war. Everyone was aware of that war and the sacrifices that would be required. Most had a family member serving in one of the two fronts and almost every family was faced with rationing's, I don't know how many here remember food stamps. I actually, were stamps, I actually have some that I've saved, and having to make the adjustments that their lives would have to be changed through this war. During the Vietnam war far fewer people experienced the sacrifices that are required. Although all had an opinion about that war, most were personally detached from the pain. As a young wife, with a husband on the front lines my baby daughter and I and other members of our family did experience first hand the agony and the uncertainty of having someone at war. Now we are engaged in another war and the debate about it is fierce. Yet, far fewer people are experiencing the personal toll of being at war means and so my flag is at half staff to honor those who will never come home. Those who will come back maimed or injured, either physically or mentally, those whose lives will never be the same. I also have my flag at half staff, Mr. President, in honor of those Iraqis who have died, whose families have been torn apart, whose country is in turmoil and for both of our countries and for the region which face an uncertain future due to the physical cost of war, the devastation of war and the instability that has been created in so many lives. I also rise Mr. President to ask for a moment of silent reflection about the toll that war takes on both our present and our future and the need for all of us to always honestly assess the reasons for going to war and the resulting consequences thereof. Thank you, Mr. President."

MOMENT OF SILENCE

The Senate observed a moment of silent reflection.

MOTION

At 3:38 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, April 20, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

1001-S3	1065
President Signed . . . . . 8	President Signed . . . . . 9
Speaker Signed . . . . . 3	1073
1005	President Signed . . . . . 9
President Signed . . . . . 9	1077
1008-S	President Signed . . . . . 9
President Signed . . . . . 8	1079-S
Speaker Signed . . . . . 3	President Signed . . . . . 8
1029-S	Speaker Signed . . . . . 3
President Signed . . . . . 9	1082-S
1037-S	President Signed . . . . . 9
President Signed . . . . . 8	1088-S2
Speaker Signed . . . . . 3	Messages . . . . . 14
1038	Other Action . . . . . 17
President Signed . . . . . 8	Second Reading . . . . . 14
Speaker Signed . . . . . 3	Third Reading Final Passage . . . . . 18
1050-S	1092-S
President Signed . . . . . 9	Messages . . . . . 7
1052-S	1094-S
President Signed . . . . . 9	Messages . . . . . 9
	1096-S2

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

President Signed	9	Third Reading Final Passage	23
1098-S		1359-S2	
Messages	2	Messages	7
1099-S		1366	
President Signed	9	President Signed	9
1106-S2		1371	
President Signed	9	President Signed	9
1131-S		1377	
President Signed	9	Messages	23
1138-S		Other Action	25
President Signed	9	Second Reading	23
Speaker Signed	8	Third Reading Final Passage	25
1140-S		1396-S	
President Signed	8	President Signed	9
Speaker Signed	3	1397-S	
1166		President Signed	9
President Signed	9	1401-S2	
1179-S		President Signed	9
Committee Report	1	1407-S	
Other Action	5	President Signed	9
Second Reading	4	1409-S	
Third Reading Final Passage	5	President Signed	9
1201-S2		1413	
President Signed	9	President Signed	8
1214		Speaker Signed	3
President Signed	8	1414-S	
Speaker Signed	3	President Signed	9
1217		1417-S	
President Signed	9	President Signed	9
1220		1418	
President Signed	8	President Signed	9
Speaker Signed	3	1422-S2	
1224		President Signed	9
President Signed	9	1443	
1233-S		President Signed	9
President Signed	9	1445-S	
1244-S		President Signed	9
President Signed	9	1449	
1255-S		President Signed	8
President Signed	8	Speaker Signed	3
Speaker Signed	3	1450	
1256-S		President Signed	9
President Signed	9	Speaker Signed	8
1259-S		1457	
President Signed	9	President Signed	9
1260-S		1461-S2	
President Signed	8	President Signed	9
Speaker Signed	3	1472-S	
1267-S		President Signed	9
President Signed	9	1476	
1276-S		President Signed	8
President Signed	9	Speaker Signed	3
1287-S		1488-S2	
President Signed	9	President Signed	9
1293		1505	
President Signed	9	President Signed	9
1298-S		1506-S2	
President Signed	9	President Signed	8
1304-S		Speaker Signed	3
President Signed	9	1512-S	
1319-S		Messages	2
President Signed	9	1520	
1328-S		President Signed	9
President Signed	9	1525	
1331		President Signed	8
President Signed	9	Speaker Signed	3
1333-S		1543	
Messages	18	President Signed	9
Other Action	21	1569-S2	
Second Reading	18	President Signed	9
Third Reading Final Passage	22	1583-S	
1334-S2		President Signed	9
Messages	22	1592	
Other Action	22	President Signed	9
Second Reading	22	1598	

President Signed	9	Second Reading	49, 50, 51
Speaker Signed	8	Third Reading Final Passage	51
1599		1910-S2	
President Signed	9	President Signed	9
1624-S		1916-S	
Messages	25	President Signed	9
Other Action	35	1922-S2	
Second Reading	26	President Signed	9
Third Reading Final Passage	35	1929-S	
1636-S2		President Signed	9
President Signed	9	1949	
1644		President Signed	8
President Signed	9	Speaker Signed	3
1646-S		1965-S	
President Signed	9	President Signed	9
1648		Speaker Signed	8
President Signed	9	1966	
1651-S		President Signed	9
President Signed	8	1980-S2	
Speaker Signed	3	President Signed	9
1654-S		1988-S	
President Signed	9	President Signed	8
1656-S2		Speaker Signed	3
President Signed	8	2004	
Speaker Signed	3	President Signed	8
1671		Speaker Signed	3
President Signed	9	2007-S	
1679-S		President Signed	9
President Signed	8	2034	
Speaker Signed	3	President Signed	9
1722		2049-S	
President Signed	8	President Signed	9
Speaker Signed	3	2055-S2	
1761-S		President Signed	8
President Signed	9	Speaker Signed	3
1777-S		2070	
President Signed	8	President Signed	9
Speaker Signed	3	Speaker Signed	8
1779-S2		2079	
President Signed	9	President Signed	9
1802-S		2087-S	
President Signed	9	President Signed	9
1805-S		2113	
President Signed	8	President Signed	9
Speaker Signed	3	2115-S	
1811-S2		President Signed	8
President Signed	8	Speaker Signed	3
Speaker Signed	3	2118-S	
1820		President Signed	8
President Signed	9	Speaker Signed	3
1832-S		2129-S	
President Signed	9	President Signed	8
1833-S		Speaker Signed	3
President Signed	9	2135	
Speaker Signed	8	President Signed	8
1837-S		Speaker Signed	3
President Signed	9	2209-S	
1859		President Signed	8
President Signed	9	2236	
1883-S		President Signed	9
President Signed	9	2240	
1891-S		President Signed	8
President Signed	9	Speaker Signed	3
1896-S2		2261-S	
President Signed	9	President Signed	9
1898		2262-S2	
President Signed	9	President Signed	9
1902		2275-S	
Committee Report	1	President Signed	9
1906-S2		2281	
President Signed	8	President Signed	9
Speaker Signed	3	2304-S	
1909-S		President Signed	9
Messages	49	2352-S	
Other Action	51	President Signed	9

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

2007 REGULAR SESSION

2357	President Signed . . . . .	8	Speaker Signed . . . . .	2	
	Speaker Signed . . . . .	3	5721-S	Speaker Signed . . . . .	2
2366-S	President Signed . . . . .	9	5731-S	Speaker Signed . . . . .	2
2378-S	President Signed . . . . .	9	5770-S	Speaker Signed . . . . .	2
2394-S	President Signed . . . . .	9	5774-S	Speaker Signed . . . . .	2
2395	Second Reading . . . . .	8	5788-S	Speaker Signed . . . . .	2
	Third Reading Final Passage . . . . .	8	5790-S2	Final Passage as amended by House . . . . .	49
2396	Second Reading . . . . .	8		Messages . . . . .	48
	Third Reading Final Passage . . . . .	8		Other Action . . . . .	49
4017	President Signed . . . . .	9	5828-S2	Speaker Signed . . . . .	2
5009-S	Final Passage as amended by House . . . . .	36	5836-S	Speaker Signed . . . . .	2
	Messages . . . . .	36	5843-S2	Speaker Signed . . . . .	2
	Other Action . . . . .	36	5859-S2	Speaker Signed . . . . .	3
5063	Speaker Signed . . . . .	2	5862-S2	Speaker Signed . . . . .	3
5074-S	Speaker Signed . . . . .	2	5881-S	Speaker Signed . . . . .	3
5092-S2	Speaker Signed . . . . .	2	5894-S	Speaker Signed . . . . .	3
5097-S	Messages . . . . .	35	5915-S	Speaker Signed . . . . .	3
5202-S	Speaker Signed . . . . .	2	5926	Speaker Signed . . . . .	3
5207-S	Final Passage as amended by House . . . . .	38	5930-S2	Messages . . . . .	7
	Messages . . . . .	36	5937-S	Speaker Signed . . . . .	3
	Other Action . . . . .	38	5958-S2	Speaker Signed . . . . .	3
5227-S	Speaker Signed . . . . .	2	5987-S	Speaker Signed . . . . .	3
5248-S	Speaker Signed . . . . .	2	5995-S2	Speaker Signed . . . . .	3
5312-S	FP as rec by CC . . . . .	14	6001-S	Speaker Signed . . . . .	3
	Messages . . . . .	10	6016-S2	Speaker Signed . . . . .	3
5320-S	Speaker Signed . . . . .	2	6099-S	Speaker Signed . . . . .	3
5435-S	Speaker Signed . . . . .	2	6100-S	Speaker Signed . . . . .	3
5470-S2	Final Passage as amended by House . . . . .	48	6117-S2	Speaker Signed . . . . .	3
	Messages . . . . .	38	6119	Speaker Signed . . . . .	3
	Other Action . . . . .	47	6128	Speaker Signed . . . . .	3
5551	Speaker Signed . . . . .	2	6141-S	Speaker Signed . . . . .	8
5552	Speaker Signed . . . . .	2	6156	Committee Report . . . . .	1
5572	Speaker Signed . . . . .	2	6157	Committee Report . . . . .	1
5634-S	Speaker Signed . . . . .	2	6158	Committee Report . . . . .	1
5639-S	Speaker Signed . . . . .	2	8011-S	Speaker Signed . . . . .	3
5647-S	Speaker Signed . . . . .	2	MESSAGE FROM STATE OFFICES		
5652-S2	Speaker Signed . . . . .	2		Municipal Research Council Audit Report . . . . .	2
5653-S	Speaker Signed . . . . .	2		Seattle Community Colleges Audit Report . . . . .	2
5669	Speaker Signed . . . . .	2		WA. Citizens Commission on Elected Officials Audit Report . . . . .	1
5674-S	Speaker Signed . . . . .	2		Washington State Alfalfa Seed Audit Report . . . . .	2
5675	Speaker Signed . . . . .	2		Western Washington University Audit Report . . . . .	2
5702-S	Speaker Signed . . . . .	2		PRESIDENT OF THE SENATE	
5718-S	Speaker Signed . . . . .	2			

ONE-HUNDRED SECOND DAY, APRIL 19, 2007

Intro. Special Guest, Shifty Sailors ..... 3  
 Remarks by the President ..... 3, 6, 7  
 Reply by the President ..... 3, 6

WASHINGTON STATE SENATE

Personal Privilege, Senator Eide ..... 3  
 Personal Privilege, Senator Franklin ..... 35  
 Personal Privilege, Senator Haugen ..... 3  
 Personal Privilege, Senator Jacobsen ..... 5  
 Personal Privilege, Senator Kline ..... 6  
 Personal Privilege, Senator Oemig ..... 6  
 Personal Privilege, Senator Regala ..... 51  
 Personal Privilege, Senator Swecker ..... 6  
 Point of Inquiry, Senator Honeyford ..... 51

